

In what capacity or on whose behalf are you participating in this public consultation?	Business association
Full name (of the participant or represented institution)	ALLRAIL
Do you wish to make your name publicly available with your answer or keep it confidential (in which case it will be published as an anonymous answer)?	Public
1. What conditions do you think a rail service should meet in order to be declared a service subject to PSO? How could the conditions required by Article 59.1 of the Spanish Rail Sector Act be verified? What elements should be part of the definition of the public service, in addition to its origin and destination (e.g. timetable, passenger ticket, etc.)? (maximum 300 words)	<p>In urban, suburban, and regional rail transport, market forces alone may fall short of ensuring adequate service levels. In these cases, Public Service Obligation (PSO) contracts become necessary to bridge the gap, but only after an independent, and thorough market analysis, has determined that public intervention, is needed.</p> <p>To verify the conditions specified in Article 59.1 of the Spanish Rail Sector Act, authorities must conduct a thorough demand analysis. This involves evaluating passenger needs, and travel patterns, to highlight areas where market forces are insufficient. Complementing this, a cost-benefit analysis is required to measure the social, and environmental advantages, against the anticipated expenses of the service, ensuring the efficient use of public funds. Moreover, authorities should assess potential alternatives offered by the commercial market, to confirm whether private operators can provide the required services, independently. This includes exploring whether measures, such as improved access to rolling stock, or reduced track access fees, could incentivize private-sector participation.</p> <p>Public service definitions must encompass key elements, including timetables designed for reliability, and adequate service frequency. Ticketing systems should ensure affordability, and integration to facilitate user access. Additionally, authorities must establish robust quality standards, that prioritize punctuality, passenger comfort, and accessibility.</p> <p>Drawing on new competitors experiences in France and Germany, the inclusion of sustainability measures, such as incentivising modal shift and reducing emissions, strengthens PSO service declarations.</p>
2. Under what conditions do you consider that the publication of the intention to tender a public service contract by a competent authority (Article 5.3b of Regulation 1370/2007) is sufficient to ascertain the market's interest to participate in it? (maximum 300 words)	<p>Market interest in PSO tenders can be effectively gauged through the publication of a tender notice, under Article 5.3b of Regulation 1370/2007, provided that authorities supply early-stage information that is both comprehensive, and transparent. This includes offering details about routes, maintenance requirements, staffing conditions, and rolling stock availability, allowing potential bidders to assess the feasibility of their participation. Additionally, establishing clear timelines for the tendering process, ensures operators can allocate resources, and plan strategically.</p> <p>Challenges such as incomplete, or inconsistent information, as seen in some French tenders, must be avoided through clear, and transparent communication. Engaging in early dialogue with potential operators further enhances confidence in the process.</p> <p>Fair competition requires impartial infrastructure managers, who guarantee non-discriminatory access to essential facilities. This oversight should include an accessible recourse mechanism, managed by an independent rail regulator. Operators should also have equitable access to critical resources like rolling stock, maintenance depots, and passenger information systems, ensuring a level playing field.</p>
3. What benefits and challenges do you think are posed by the tendering of rail services subject to PSO? Do you think there are specific benefits and challenges for each mode of transport (Suburban, Conventional Mid-distance, and High Speed Mid-distance)? (maximum 300 words)	<p>The European co-legislators have clearly recognised the benefits of competitive tendering. This is reflected in the Fourth EU Railway Package, specifically in Regulation (EC) 1370/2007, as amended by Regulation (EU) 2016/2338. This legislation has progressively phased out direct awards of PSO contracts, culminating in their prohibition from December 2023, with only very limited and well-defined exceptions. Such benefits have also been recognised by the European Commission in a study published in September 2024. Furthermore, ALLRAIL's position paper details the said benefits, which can be consulted by CNMC here. To ensure cost efficiency PSO tendering encourages competition, driving down costs and enabling authorities to save on public subsidies. These savings can then benefit passengers, through improved services. Moreover, competitive tendering strengthens the position of transport authorities, allowing them to set higher standards for service frequency, rolling stock quality, and punctuality, which collectively improve the overall quality of service. Despite these advantages, tendering processes face significant challenges. New operators incur high entry costs, often requiring extensive preparation over 12 months, a barrier, not faced by incumbent concession holders. Large contracts may also exceed the capacity of new entrants, favouring incumbents, and reducing competition. Misaligned calendars for simultaneous tenders, can strain resources, for both authorities, and bidders. Furthermore, access to essential facilities, and data, remains inequitable. New operators frequently encounter difficulties obtaining route performance metrics, maintenance records, and passenger data. In addition, spare parts for rolling stock maintenance are often inaccessible, as they are controlled by current concession holders. Each transport mode poses unique challenges. Suburban rail services demand complex coordination, due to integrated fare systems. Conventional mid-distance rail requires balancing service frequency, with regional demand, while high-speed rail faces the twin challenges of high capital costs, and ageing rolling stock.</p>
4. Under what circumstances do you think the public transport authority could invoke one of the exceptions in Article 5 of Regulation 1370/2007 and not tender a PSO service? What structural or geographical characteristics could justify a direct award? What criteria could be considered to justify a direct award due to the complexity of the network? What threshold should be considered to justify a direct award due to service improvement and/or cost efficiency? (300 words maximum)	<p>Regulation (EC) 1370/2007 does provide well-defined exceptions under which PSO may not be tendered. Moreover, according to the European Commission's interpretative guidelines on the said Regulation, such exceptions must be interpreted restrictively. Furthermore, in ALLRAIL's view, such categories exceptions can only be considered if, despite the introduction of remedies by transport authorities and/or competition authorities to lower the barriers to market entry, the market remains unable to submit competitive bids. Finally, thresholds that might justify a direct award due to service improvement and/or cost efficiency can be established as following:</p> <ul style="list-style-type: none"> - Cost savings exceeding 20% of tendering projections. - Documented failure to attract interest in prior tenders, despite the implementation of remedies. <p>That being said, ALLRAIL strongly advocates that direct awards of PSOs be left in last resort, as they undermine competition and transparency.</p>
5. If you wish, please provide additional comments on the issues addressed in this block of questions (maximum 500 words)	<p>From ALLRAIL's experience, fostering competition in PSO tendering requires tackling several structural, and operational barriers. Transparency in data sharing is paramount: authorities must provide all bidders with equal access to maintenance records, route performance metrics, and passenger statistics. This ensures that no bidder benefits from informational asymmetry. Labor management strategies, such as clear subrogation processes, are equally important. These reduce risks during the transition of operations from incumbents, to new entrants, ensuring service continuity.</p> <p>Investing in eco-innovation is another crucial measure. Authorities should establish research, and development partnerships, to promote sustainable technologies, such as low-emission rolling stock. These initiatives align with broader environmental objectives, while enhancing the efficiency of rail services.</p> <p>Authorities must also design robust monitoring frameworks to ensure PSO tenders achieve public mobility objectives, incorporating flexibility for iterative improvements.</p>

<p>6. Which elements of the regulatory framework are most relevant and which best practices should be observed to ensure competition and a level playing field for operators in the bidding process? (select one or more elements):</p> <ul style="list-style-type: none"> - Development of a common regulation applicable to all competent authorities (state and regional) for the competitive tendering of services subject to PSO. - Independent authority supervising the tender procedure. - Coordination between competent authorities for the establishment of an indicative tendering schedule. - Publication of an indicative timetable on the various milestones of the specific bidding process. - Access to relevant market information. - Design of specifications and award criteria. - Other (specify) 	
<p>If you wish, you may justify your previous answer (maximum 300 words)</p>	
<p>7. What information should be made available to bidders to enable them to formulate competitive bids on equal terms? For example, demand information that is not publicly available (passengers boarded and alighted by origin and destination, and with the highest frequency available -daily, weekly, monthly-), as well as other aspects such as current schedules and frequencies, the current state and maintenance of inherited rolling stock, the number, characteristics and conditions of personnel in case of subrogation, location and capacity of service facilities, or other relevant information. Specify the level of detail, frequency and format in which you consider this information should be made available to bidders, and whether it is public or private information (maximum 300 words)</p>	<p>For equitable competition, authorities should establish a data centre accessible from the tender's outset. This centralized repository should contain comprehensive demand data, detailing passenger volumes by origin and destination across daily, weekly, and monthly intervals. Operational details, such as current timetables, service frequencies, and performance metrics, must also be included. Additionally, rolling stock information, including maintenance records, technical specifications, and lifespan, is critical, for enabling informed bids. Personnel data, covering roles, seniority, and locations, ensures that subrogation requirements are clear.</p> <p>Infrastructure access details, such as the location, and capacity of depots, maintenance facilities, and service stations, should also be specified. To ensure parity, data should be presented in standardised, digital formats and regularly updated to reflect real-time service conditions. This transparency is critical to mitigating the incumbent operator's information advantage.</p>
<p>8. What criteria and elements should the transport authority consider when designing the procurement documents and the contract? (select one or more elements):</p> <ul style="list-style-type: none"> - Access to essential elements for the provision of the service (rolling stock, maintenance workshops, personnel, etc.). - Synergies with liberalized services. - Geographical consistency in the provision of services. - Contract size. - Contract design and risk sharing. - Other (specify) 	<ul style="list-style-type: none"> - Access to essential elements for the provision of the service (rolling stock, maintenance workshops, personnel, etc.); - Synergies with liberalized services.; - Geographical consistency in the provision of services.; - Contract size.; - Contract design and risk sharing.
<p>If you wish, you may justify your previous answer (maximum 300 words)</p>	<ul style="list-style-type: none"> - Access to essential resources: Equitable provision of rolling stock, workshops, and other critical assets. - Geographical consistency: Coordinated contracts ensuring logical service groupings. - Contract size: Avoiding over-large packages that deter smaller bidders while maintaining economies of scale (see the point on allotment in our response to question 3). - Risk sharing: Balanced distribution of operational risks between authorities and operators.
<p>9. If you wish, please provide additional comments on the issues addressed in this section (maximum 500 words)</p>	

<p>10. Which measures could encourage the coordination of the different government levels for the design and integration of the land public transport network (rail, bus, etc.)? (maximum 300 words)</p>	<p>Multimodal planning frameworks are vital, for effectively integrating land transport networks. Authorities should establish joint planning committees, to align priorities across jurisdictions, and develop integrated transport plans, as outlined in Spain's forthcoming Ley de Movilidad Sostenible. These plans should emphasize coordination among various modes of transport, to optimize network efficiency. Digital tools are indispensable for achieving integration. Unified systems for managing schedules, ticketing, and infrastructure planning, eliminate inefficiencies, and enhance user experiences. Real-time interoperable platforms facilitate the seamless exchange of demand, and capacity data, improving coordination between different transport modes. Consistent funding mechanisms across transport modes, help avoid duplication, and address investment gaps. Resources must be allocated equitably to ensure all modes contribute effectively to the overall network. Legal frameworks, such as Spain's Articles 42-46 of the draft mobility law, must be strengthened to govern PSOs, while promoting equity, transparency, and service integration. Expanding the oversight capabilities of independent regulatory bodies will further foster accountability, and ensure compliance. Collaboration between public authorities and private operators is also essential. Public-private partnerships can drive innovation, providing customer-centric solutions that enhance overall network efficiency. The Ley de Movilidad Sostenible represents a step forward in prioritising coordination. Similar initiatives across the EU, supported by frameworks like the European Green Deal, aim to enhance transport network integration and sustainability.</p>
<p>11. What elements of the regulatory and institutional framework could be improved to ensure adequate management of conflicts between public services declared as PSO and commercial land transport services? (maximum 300 words)</p>	<p>Establishing clear distinctions between PSO and commercial operations, is critical to resolving conflicts, within the regulatory framework. Authorities must provide well-defined regulatory boundaries, to ensure that PSO services do not unfairly compete with commercial operations. Independent oversight by regulators overseeing infrastructure, and scheduling, is essential to maintain impartiality. Encouraging open dialogue between PSO operators and commercial entities fosters collaboration and resolves potential overlaps in services. Regular communication ensures that both parties can adjust operations, to meet public needs efficiently.</p>
<p>12. What elements of the regulatory framework could be improved to enable the joint sale of tickets from different operators or means of transport? (maximum 300 words)</p>	<p>The regulatory framework must prioritize interoperability, by requiring operators to adopt standardized digital ticketing systems. These systems allow passengers to transition seamlessly between different modes, and operators, enhancing the overall user experience. By encouraging joint ticketing schemes, authorities can foster greater integration across the transport network. Transparency in data exchange is equally important. Operators must have access to the information necessary for efficient service planning, while ensuring that passenger data privacy is safeguarded. These measures collectively contribute to a cohesive, and user-friendly public transport system.</p>
<p>13. If you wish, please provide additional comments on the issues addressed in this section (maximum 500 words)</p>	
<p>14. If you wish, please provide additional comments on the opening of public passenger rail transport services to competition or on any other issue raised in this questionnaire (maximum 500 words)</p>	