VIEWPOINT Darren Fodey

'Brexit': no rush for change

The result of the UK's referendum on its membership of the European Union sent shockwaves across Europe. Yet while the UK's relationship with the EU will never be the same again, the short-term implications for the European railway sector should not be so dramatic.

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Since the EU railway reform legislation was introduced in the early 1990s, the European Union has had a significant impact on the structure, funding, regulation and standards applied to Europe's railways. A key element has been the vertical separation of infrastructure management from train operations. Successive legislative packages, up to and including the recent recast of the First Railway Package and forthcoming Fourth Railway Package, have sought to clarify and strengthen this separation and improve financial transparency.

One of the reasons for these continuing reforms is that EU requirements have not been implemented across Europe as had initially been expected, although as a member state the UK has been largely compliant. Certain countries have introduced the letter — rather than the spirit — of the legislation, leading to calls for further measures to ensure full separation and a consistent approach to market liberalisation across the EU.

It is worth remembering that the core structure of railway regulation in the UK pre-dates EU legislation. Indeed, much of the EU's reform agenda borrows heavily from reforms first adopted in the UK and Sweden. While, theoretically, withdrawal from the EU would allow the reintegration of infrastructure management and train operations in the UK, it seems unlikely that the country would take immediate steps to reverse a model which it pioneered. There are also good competition, economic and commercial reasons for retaining the existing structure.

The UK government has made clear that, until the process of withdrawing from the EU is complete, it will continue to meet its obligations as a member state. This means, for example, that the regulations implementing the recast of the First Railway Package were due to come into effect at the end of last month. Whether future EU legislation will be implemented in whole or in part is uncertain, but in the short term the pre-referndum legal position remains.

In order to withdraw from the EU, the UK parliament will need to invoke Article 50 of the Treaty on European Union, pass legislation to repeal the European Communities Act 1972 and put in place transitional arrangements, making clear which EU standards and regulations will continue to apply. This process will be neither easy nor quick, given the need to untangle interwoven legal systems.

How future rail policy might be applied in Britain depends largely on the UK's future status in Europe. On the day of withdrawal, EU requirements in relation to access to railway facilities, safety, licensing and TSIs are unlikely to change. Over time, the two policy frameworks could gradually start to move apart as the EU pursues its own objectives, with the UK potentially taking a slightly different direction. European rail businesses will therefore need to stay abreast of changes and any UK-specific peculiarities as they emerge.

Emerging areas of focus

In the longer term, a number of questions and policy issues will need to be addressed.

- **Public service operating contracts.** EU-based owning groups will want to continue to bid in UK franchise competitions. Likewise, UK-based transport companies will want to expand in EU markets, particularly as they open up to more competition. It seems unlikely that these opportunities will be closed off, particularly in the UK where the Department for Transport has been seeking to grow the size of the franchise bidding market for a number of years. However, any competition is likely to be influenced by the prevailing economic conditions at the time. If procuring authorities have less funding available, the focus may be on obtaining the cheapest price for operating services, rather than any element of 'quality' which, in the UK at least, has seen increasing prominence in recent times.
- **Rolling stock.** Manufacturers accounting in euros could see the cost of their products increase relative to UK-based companies if the value of sterling in the currency markets continues to erode and/or fluctuate. This could make new rolling stock more expensive, and there may therefore be pressure on extending the life of existing trains, particularly if such refurbishment options deliver substantially enhanced vehicles.
- **Financing.** Conventional forms of rail asset financing based on debt may also become more difficult or expensive. However, this may lead to opportunities for alternative models to take root in European markets where products are based on equity or bond financing. An increase in the availability of alternative financing models has been seen in recent years, although not many have yet reached financial close. 'Brexit' could be the catalyst for change.

Nevertheless, until there is clarity on the terms of the UK's exit from the EU, the UK legal and regulatory framework remains the same. It seems unlikely that, for the time being at least, there will be significant changes in the railway sector, and this should provide some reassurance for the wider European rail community. ■

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