

Courtesy translation – only the Italian text is authentic

Decision No 227/2022

Indications and requirements concerning the “Network Statement 2024” submitted by the infrastructure manager of the national rail network, R.F.I. S.p.A., and the “Network Statement 2023”

The Authority, at its meeting of 30 November 2022

HAVING REGARD to Article 37 of Decree-Law No 201 of 6 December 2011, converted, with amendments, into Law No 214 of 22 December 2011, establishing the Transport Regulation Authority (hereinafter: Authority) within the framework of the regulation of public utility services pursuant to Law No 481 of 14 November 1995, and, in particular, to paragraph 2 (a), pursuant to which the Authority *“ensures, according to methods that encourage competition, production efficiency and cost containment for users, businesses and consumers, as well as equitable and non-discriminatory access to rail [...]infrastructure”*;

HAVING REGARD to Legislative decree No 112 of 15 July 2015 *“Implementation of Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (Recast)”*, and in particular:

- Article 14 (1), whereby *“The infrastructure manager shall after consultation with the regions, autonomous provinces and other interested parties, develop and publish a network statement, ensure that it is periodically updated and introduce appropriate amendments and additions, on the basis of any indications and requirements submitted by the regulatory body, which may also cover the specific arrangements for the above-mentioned consultation”*;
- Article 37 (1), which provides that the regulatory body is the Transport Regulation Authority;
- Article 37 (3), which provides that the Authority, without prejudice to the responsibilities of the Competition Authority, has, in particular, the power to monitor the competitive situation on rail service markets and monitors that the network statement does not contain discriminatory provisions or does not give the infrastructure manager discretionary powers that can be used to discriminate against applicants;

HAVING REGARD to Decree No 139 of 23 November 2018 *“Implementation of Directive (EU) 2016/2370 of the European Parliament and of the Council of 14 December 2016*

amending Directive 2012/34/EU as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure”;

- HAVING REGARD** to Commission Delegated Decision (EU) 2017/2075 of 4 September 2017 replacing Annex VII to Directive 2012/34/EU of the European Parliament and of the Council establishing a single European railway area;
- HAVING REGARD** to Commission Implementing Regulation (EU) 2017/2177 of 22 November 2017 on access to service facilities and rail-related services;
- HAVING REGARD** to Commission Implementing Regulation (EU) 2018/1795 of 20 November 2018 laying down procedure and criteria for the application of the economic equilibrium test pursuant to Article 11 of Directive 2012/34/EU of the European Parliament and of the Council;
- HAVING REGARD** to Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers’ rights and obligations;
- HAVING REGARD** to the Authority’s Decision No 70/2014 of 31 October 2014 published on the Authority’s institutional website on 5 November 2014 on *“Regulation of equitable and non-discriminatory access to railway infrastructure and initiation of a proceeding to define the criteria for setting the charges for use of the railway infrastructure”*;
- HAVING REGARD** to Decision No 76/2014 of 27 November 2014 laying down *“Indications and requirements on the Network Statement 2015, submitted by the infrastructure manager of the national railway network, R.F.I. S.p.A.”*;
- HAVING REGARD** to Decision No 104/2015 of 4 December 2015 laying down *“Indications and requirements on the Network Statement - Year 2017 – applicable from 11 December 2016”, submitted by the infrastructure manager of the national railway network, R.F.I. S.p.A., and on the Network Statement currently in force”*;
- HAVING REGARD** to the Authority’s Decision No 140/2016 of 30 November 2016 laying down *“Indications and requirements on the Network Statement 2018”, submitted by the infrastructure manager of the national railway network, R.F.I. S.p.A., and on the current “Network Statement 2017”. Indications concerning the preparation of the “Network Statement 2019”*;
- HAVING REGARD** to Decision No 140/2017 of 30 November 2017 laying down *“Indications and requirements concerning the “Network Statement 2019”, submitted by the infrastructure manager of the national railway network, R.F.I. S.p.A., the “Network Statement 2018”, and the preparation of the “Network Statement 2020”*;
- HAVING REGARD** to the Authority’s Decision No 118/2018 of 29 November 2018 laying down *“Indications and requirements concerning the Network Statement 2020”*,

submitted by the infrastructure manager of the national railway network, R.F.I. S.p.A., the “Network Statement 2019”, and the preparation of the “Network Statement 2021”;

- HAVING REGARD** to Decision No 130/2019 of 30 September 2019 on *“Conclusion of the proceeding initiated by Decision No 98/2018 — “Measures concerning access to service facilities and rail-related services”;*
- HAVING REGARD** to Decision No 151/2019 of 21 November 2019 on *“Indications and requirements concerning the Network Statement 2021”, submitted by the infrastructure manager of the national railway network, R.F.I. S.p.A., the “Network Statement 2020”, and the preparation of the “Network Statement 2022”;*
- HAVING REGARD** to the Authority’s Decision No 156/2020 of 15 September 2020 concerning the approval of the *“Methodology for the economic equilibrium test of public service contracts pursuant to Article 12 of Legislative Decree No. 112/2015 and Article 14 of Commission Implementing Regulation (EU) 2018/1795”;*
- HAVING REGARD** to Decision No 187/2020 of 26 November 2020 on *“Indications and requirements concerning the “Network Statement 2022” submitted by the infrastructure manager of the national rail network, R.F.I. S.p.A., and the “Network Statement 2021”;*
- HAVING REGARD** to the Authority’s Decision No 173/2021 of 6 December 2021 on *“Indications and requirements concerning the “Network Statement 2023”, submitted by the infrastructure manager of the national railway network, R.F.I. S.p.A., and the “Network Statement 2022”;*
- HAVING REGARD** to the note of 30 September 2022, registered as received under ART ref. no. 20441/2022, whereby Rete Ferroviaria Italiana S.p.A. (hereinafter: RFI) submitted the final draft of the *“Network Statement 2024”* (hereafter NS 2024) which regulates the capacity allocation process on the national rail network to be implemented in 2022, as well as the infrastructure access contracts with reference to the working timetable in force from 10 December 2023 to 14 December 2024, together with a summary of the comments received from interested parties following the consultation phase launched by RFI on 1 July 2022, and its ensuing assessments;
- HAVING REGARD** to note ref. no. 22738/2022 of 20 October 2022, whereby the Authority summoned RFI to a hearing in order to obtain clarifications and information on the above-mentioned final draft of the NS 2024;
- HAVING REGARD** to the minutes of the above-mentioned hearing, held on 21 October 2022, registered as received under ART ref. no. 24383/2022;

HAVING REGARD

to the note of 11 November 2022, registered as received under ART ref. no. 24126/2022, whereby RFI submitted review proposals concerning the penalty system for the RU in case of exceeding stopping times at foreign network connecting stations, taking into account both the market needs as resulting from previous discussions on the possible developments of the current system and, lastly, from the considerations arising from the consultation phase that was initiated with the publication of the final draft of the NS 2024 on 30 September 2022 and closed on 14 October 2022;

HAVING CONSIDERED

that, following the analysis carried out by the competent offices, some aspects and issues justify the adoption of specific indications and requirements, relating in particular to: TTR project, management of path requests for trains with a mass exceeding 1,600 tonnes, system of penalties for exceeding stop times at border stations, contractual conditions for access to the freight terminals of the IM, correct communication to the market of the parameters taken as reference by the IM for the construction of the paths and the corresponding operating model used for the network sections;

HAVING CONSIDERED

accordingly, to provide to RFI, pursuant to Legislative Decree No 112/2015 and Legislative Decree No 201/2011, indications and requirements on the NS 2024, whose objective scope refers exclusively to the national railway infrastructure managed under a concession agreement by RFI S.p.A., pursuant to Decree No 138T of 31 October 2000 of the Minister for Transport and Navigation;

HAVING CONSIDERED

that, since certain indications and requirements are aimed at optimising the transparency and effectiveness of the information of the NS, and include improvements for the applicants for capacity, they should be also applied with reference to the working timetable in force from 11 December 2022 to 9 December 2023, and therefore require the updating of the current “*Network Statement 2023*”;

upon proposal of the Secretary-General, in view of the case records

HAS ADOPTED THE FOLLOWING DECISION

1. approval of the indications and requirements concerning the “*Network Statement 2024*”, submitted by the infrastructure manager of the national railway infrastructure Rete Ferroviaria Italiana S.p.A. (hereinafter: RFI), as set out in Annex A to this Decision, which forms an integral and substantial part thereof;
2. the indications and requirements set out in Annex A shall be transposed by RFI in the “*Network Statement 2024*” by the date of its publication;
3. the indications listed in Annex A, only with regard to those under headings 1.1.2.1, 1.1.2.2, 3.2.2.1, 4.1.2.1, 4.4.2.1, 5.1.2.1, 5.2.2.1, and the requirements set out in that Annex, only with regard to

headings 2.2.3.1, 2.3.3.2, 3.1.3.1, 4.4.3.1, 5.1.3.2, 5.2.3.1, 5.2.3.2, 5.2.3.3, 5.3.3.1, 5.4.3.1 shall be transposed by RFI in the “*Network Statement 2023*” no later than 10 December 2022;

4. this decision is communicated to RFI by certified email.

Turin, 30 November 2022

The President
Nicola Zaccheo

(digitally signed pursuant to
Legislative Decree no 82/2005)