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Decision No 151/2019

Indications and requirements concerning the “Network Statement 2021” submitted by the infrastructure manager of the national rail network, R.F.I. S.p.A., the “Network Statement 2020”, and the preparation of the “Network Statement 2022”.

The Authority, at its meeting of 21 November 2019

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 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 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 the note of 11 October 2019, registered as received under ART ref. no. 12363/2019, whereby Rete Ferroviaria Italiana S.p.A. (hereinafter: RFI) submitted the final draft of the “*Network Statement 2021*” (hereafter NS 2021) which regulates the capacity allocation process on the national rail network to be implemented in 2020, as well as the infrastructure access contracts with reference to the working timetable in force from 13 December 2020 to 11 December 2021, together with a summary of the comments received from interested parties following the consultation phase launched by RFI on 1 July 2019, and its ensuing assessments;
- HAVING REGARD** to note ref. no. 13481/2019 of 25 October 2019, whereby the Authority summoned RFI to a hearing in order to obtain clarifications and information on the above-mentioned final draft of the NS 2021;
- HAVING REGARD** to the minutes of the above-mentioned hearing, held on 30 October 2019, registered as received under ART ref. no. 13978/2019;
- HAVING CONSIDERED** that, following the analysis carried out by the competent offices, some aspects and issues require the adoption of specific indications and requirements, relating, in particular, to the following: commercial conditions of access to the infrastructure; information provided to railway undertakings prior to operation concerning available capacity; coordination of the railway operation; system of penalties for delays caused by the infrastructure manager; allocation of capacity; information provided by the infrastructure manager to the Authority on scheduled services and available capacity; accessibility for persons with reduced mobility;
- 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 2021, 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 15 December 2019 to 12 December 2020, and therefore require the updating of the current “*Network Statement 2020*”;
- HAVING CONSIDERED** that it is necessary to provide guidance for the preparation of the NS 2022, as this relates to activities that imply timelines for initiation and completion, by the infrastructure manager, to be carried out within an appropriate time horizon starting in 2020;

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 2021”, 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 2021” by the date of its publication;
3. the indications listed in Annex A, only with regard to those referred to in 1.1.2.1, 1.1.2.2, 1.1.2.3, 2.2.2.1, 2.2.2.2, 2.5.2.1, 2.5.2.2, 5.1.2.1, and the requirements set out in that Annex, only with regard to those referred to in 1.1.3.1, 1.1.3.2, 2.1.3.1, 2.3.3.1, 2.5.3.5, 2.7.3.1, 2.7.3.2, 3.2.3.1, 3.2.3.1, 3.3.3.1, 3.4.3.1, 3.5.3.1, 3.5.3.2, 3.5.3.3, 4.3.3.3, 5.5.3.2, shall be transposed by RFI in the “Network Statement 2020” no later than 14 December 2019;
4. indication 6.1.2.1 referred to in Annex A is transposed by RFI as part of the annual update procedure that will take place in 2020 and will be concluded with the publication of the “Network Statement 2022”;
5. this decision is communicated to RFI by certified email.

Turin, 21 November 2019

The President
Andrea Camanzi