Vertical separation, disputes resolution and competition in railway industry

D. Bouf, Y. Crozet & J. Lévêque
Transportation Economics Laboratory (LET)
CNRS & University Lyon 2
Lyon, France
Introduction

Outline

• Introduction: vertical separation and regulation in GB and France

• Conflict sources: monopoly of the IM and externalities

• Dispute prevention (rules, principles) and resolution systems

• Conclusion: consequences for competition
Vertical separation and regulation in Great Britain

Introduction

(SRA) Franchise contracts

Department for Transport

Regulator ORR

Railway Undertakings Track access agreements

arrangement

Infrastructure Manager Network Rail

Thredbo 9: Vertical separation, disputes resolution and competition in railway industry
Vertical separation and regulation in France

Introduction

Regions, Government

SNCF (main RU)

Contracts

Contracts for use

Infrastructure Manager

RFF

Delegated IM

SNCF

other RUs

law

law

law

Thredbo 9: Vertical separation, disputes resolution and competition in railway industry
Conflict sources

The monopoly of the Infrastructure Manager

• **Access & pricing**: market power $\Rightarrow$ high prices
  “quiet life” $\Rightarrow$ no guarantee of slot quality/quantity

• **Slots allocation**:

  ![Graph showing supposed preferences]

  IM’s supposedly preferred slots allocation  
  RU’s supposedly preferred slots allocation

• **Congestion**: a lack of investment incentives (prejudicial to the RUs)

Thredbo 9: Vertical separation, disputes resolution and competition in railway industry
Externalities affecting another party

- **Maintenance works**: IM’s maintenance costs minimization
  ⇒ long interruption of train services (prejudicial to the RUs)

- **Delays**: IM’s or an RU’s carelessness
  ⇒ delay spread to other trains (prejudicial to the RUs)

- **Disruptions**: accidents or blackout
  ⇒ deleted trains (prejudicial to the RUs)
  ⇒ infrastructure damages (prejudicial to the IM)

- **Network changes**: some changes may increase operating costs

Thredbo 9: Vertical separation, disputes resolution and competition in railway industry
Dispute prevention rules

**GB: industrial rules & contracts**

- the IM, RUs and regulator agree on
  - the Network Code (237 p.)
  - the Rules of the plan
  - the Rules of the route

- the IM and each RU sign a Track Access Agreement (approved by the ORR)

**F: law & hierarchical system**

- the IM defines the Network Statement (submitted to the RUs and approved by the Government)

- the IM and each RU sign a Contract for Use

---

Thredbo 9: Vertical separation, disputes resolution and competition in railway industry
## Dispute prevention principles

<table>
<thead>
<tr>
<th>GB: the compensation principle</th>
<th>F: a lack of incentives</th>
</tr>
</thead>
<tbody>
<tr>
<td>• each externality is compensated (a complex mechanism)</td>
<td>• no compensation (except in some cases of disruption)</td>
</tr>
<tr>
<td>+ social welfare ↗; risk ↘</td>
<td>- a lack of financial incentives</td>
</tr>
<tr>
<td>- high transactional costs</td>
<td>+ SNCF (delegated IM) should have natural incentives (as main RU) to maintain the network</td>
</tr>
</tbody>
</table>

Thredbo 9: Vertical separation, disputes resolution and competition in railway industry
## Dispute resolution systems

### GB: inside the industry
- **industry** mediation service (common practice)
- **specific** court (less common)
- appeal to the **ORR** (exceptional)

### F: outside the industry
- **external** mediation committee
- **usual** court
- **usual** procedure of appeal

---

Thredbo 9: Vertical separation, disputes resolution and competition in railway industry
Consequences for competition in Great Britain

- long term relationship between the IM and the RUs
- Network Rail (IM) = hybrid form
- RUs’ investments transfer
- bigger role of the Government

vertical re-integration
barriers to entry

less competition

Thredbo 9: Vertical separation, disputes resolution and competition in railway industry
Consequences for competition in France

- strong antagonism IM / SNCF (main RU)  ➞ no vertical re-integration
- SNCF’s lobbying to assert its rights, as an operator  ➞ benefit to the other RUs
- no industry mediation  ➞ no collusion between the RUs  ➞ no vertical re-integration

prepares the progressive introduction of competition