

CNMC public consultation on public passenger transport services by railroad

(open from October 30th, 2024 to December 13th, 2024)

This document is for information purposes only. Responses to the public consultation should be submitted by filling out the web form that can be found at [this link](#).

Why is the CNMC conducting a public consultation on public passenger rail transport services?

Passenger rail transport is crucial for the economy and for the welfare of citizens, as it is more sustainable and safer than other means of transport and is widely used. According to data from the Spanish Statistical Office (INE), in 2023 it totaled 533.6 million passengers in Spain, transported through a network of 15,615 km and nearly 11,000 trains per day, with most of the routes being suburban and mid-distance.

The sector is in the midst of a major transformation. Following the opening of freight transport to competition in 2005, high-speed and long-distance passenger transport began to open up in December 2020, with a very positive impact (see [Report on the liberalization of passenger rail transport \(INF/DTSP/031/2024\)](#)). **The next milestone is the introduction of competition in passenger transport subject to public service obligations (PSO)**, which in Spain corresponds to **suburban and mid-distance services**. The CNMC has already begun to examine the challenges accompanying this opening and to make recommendations to address them, most recently in the report [IPN/CNMC/014/24](#) on the Draft Order on the regime of authorizations to provide passenger rail transport services subject to public service obligations.

Given its relevance for the economic, social and ecological transition, and considering the challenges it faces, **the CNMC has initiated a study on passenger rail transport services subject to public service obligations**. The objective would be to identify the challenges of opening these services to competition and make recommendations to address them and guarantee the best outcome for the benefit of citizens.

As a starting point for this study, the CNMC is launching this public consultation.

What is the public consultation for?

The public consultation aims to reach the largest number of agents involved in this field to gather their views on public passenger rail transport services and their upcoming tendering. It also responds to the objective that the CNMC studies are supported by public consultations to encourage the participation of society in its development, as contemplated in the CNMC's [Strategic Plan 2021 - 2026](#).

The responses provided will be analyzed to identify possible areas for improvement. These will be incorporated into the study and may lead to recommendations to promote competition and efficiency in public passenger rail transport services.

Rules for participation in this public consultation

This public consultation follows a transparent process and the contributions received will be taken into consideration for drafting the study. The contact e-mail address of the participants in the consultation will remain confidential and will not be published under any circumstances. The full name of the individual or institution responsible for the contribution may be kept confidential **if expressly requested**. However, **the answers may be published in their entirety**, unless there are duly justified confidentiality reasons.

Only the fields marked with an asterisk (*) are mandatory. Answering the rest of the questions of the consultation is not mandatory, **so participants are encouraged to focus their contributions on those sections where they hold relevant information**, leaving questions where no information or judgment is available unanswered or marked as DK/DA (“don't know/ don't answer”).

Answers to open-ended questions are provided with a maximum character length in order to ensure a concise response. Participants are encouraged to include references or links to publicly available documentation to reduce the extension of the contribution as much as possible. If a participant wishes to submit additional information, an electronic file (pdf, excel, word, etc.) may be sent to the e-mail address dp.estudios@cnmc.es with the subject line “Study on Passenger Rail PSO”. Again, this documentation may be published in its entirety, unless otherwise requested for duly justified confidentiality reasons.

Your information

In what capacity or on whose behalf are you participating in this public consultation?*

- Railway operator
- Railway infrastructure manager
- Railway material or infrastructure manufacturers
- Mobility service operators
- Business association
- Public Administrations
- Experts and academics
- User or consumer
- Others (specify)

Full name (of the participant or represented institution) *

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
- Confidential

Contact e-mail (will remain confidential)*

Section I: upcoming tendering of rail services subject to PSOs

The contract with the General State Administration for the provision of railway services subject to public service obligations (OSP) expires in 2027, with the possibility of being extended until 2033. Services representing around 3% of the contract must be put out to tender as from January 1, 2026.

The next contracts signed by the General State Administration will have to be put out to tender, in accordance with the provisions of Regulation (EC) No. 1370/2007, thus completing the liberalization of passenger rail transport services.

This section consults your opinion on the opportunities and challenges of opening these services to competition.

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)
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)
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)
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)
5. If you wish, please provide additional comments on the issues addressed in this block of questions (maximum 500 words).

Section II: on the organization and design of tenders

The organization and design of tenders and public contracts influence the competitive intensity of the processes.

This section consults your opinion on the elements that influence the success of tenders.

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):
- 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):

If you wish, you may justify your previous answer (maximum 300 words)

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)
8. What **criteria** and elements should the transport authority consider when designing the **procurement documents** and the **contract**? (select one or more elements):

- 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):

If you wish, you may justify your previous answer (maximum 300 words).

9. If you wish, please provide **additional comments** on the issues addressed in this section (maximum 500 words)

Section III: multimodal design and coordination of the land transport network

The integration of the different public land transport services requires close collaboration between the different competent territorial administrations, guaranteeing the mobility of citizens and avoiding duplication. In addition, the coexistence between the different public transport services and free market commercial services can lead to conflicts that need to be managed. Finally, it is desirable to adopt measures to facilitate the traveler's combined use of transport services of different modes and operators.

This section consults your opinion on measures to ensure an efficient and coordinated design of the land passenger transport network.

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)
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)
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)
13. If you wish, please provide additional comments on the issues addressed in this section (maximum 500 words)

Section IV: additional comments

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)