HRVATSKA REGULATORNA AGENCIJA
ZA MREŽNE DJELATNOSTI

LIBERALIZATION OF RAIL FREIGHT TRANSPORT IN THE REPUBLIC OF CROATIA 2013. - 2022.

Zagreb, October 5, 2023.

CONTENT

REGULATORY AUTHORITY

- Agency for the Regulation of the Railway Services Market (ARTZU)
    - established 2009.
- ARTZU was merged with HAKOM-u in June 2014.
- Croatian Regulatory Authority for Network Industries (HAKOM)
    - National regulatory authority – electronic communications, postal services, railway services
        - independent
        - autonomous
        - non-profit
        - legal entity with public authority

REGULATORY AUTHORITY

- **Railway services sector**
  - Engineers, economists, lawyers
- **Rail market regulation**
  - Regulation
  - Inspection
- **Rail passenger rights**
  - Individual disputes
  - Inspection
  - implementation of EC Regulation no. 782/2021

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LEGISLATION

National legislation

- Act on the Regulation of the Rail Services Market and Rail Passenger Rights Protection (OJ No 104/17)
- Railway Act (OJ No 32/19, 20/21 i 114/22)
- Act on Contracts for Railway Transport (OJ No 87/96, 114/22)
- Consumer Protection Act (OJ No 19/22, 59/23)

LEGISLATION

European legislation

- Directive (EU) 2012/34 of the European parliament and the Council on the establishment of a single European railway area

- Directive (EU) 2016/2370 of the European parliament and of the Council amending Directive 2012/34/EU with regard to market opening for domestic rail passenger transport services and railway infrastructure management

- Commission Implementing Regulation (EU) 2018/1795 of November 20, 2018 establishing the procedure and criteria for applying the economic balance test based on Article 11 of Directive 2012/34/EU of the European parliament and of the Council
- Commission Implementing Regulation (EU) 2017/2177 of November 2, 2017 on access to railway-related service facilities and services

- Regulation (EC) no. 2007/1370 of the European parliament and the Council of October 23, 2007 on public rail and road passenger transport services and repealing Council Regulation (EEC) no. 1191/69 and (EEC) no. 1107/70

- Regulation (EC) no. 1370/2007 of the European parliament and the Council of October 23, 2007 on public rail and road passenger transport services and the repeal of Council Regulation (EEC) no. 1191/69 and (EEC) no. 1107/70

- Regulation (EU) 2338/2016 of the European parliament and Council of December 14, 2016 amending Regulation (EC) no. 1370/2007 regarding market opening for domestic rail passenger transport services

- Regulation (EU) 2394/2017 of the European parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the implementation of consumer protection regulations and repealing Regulation (EC) no. 2006/2004

- Directive (EU) 882/2019 of the European parliament and of the Council of April 17, 2019 on requirements for accessibility of products and services

- Regulation (EU) 2021/782 of the European parliament and of the Council of April 29, 2021 on the rights and obligations of passengers in rail transport

JURISDICTION -
Railway services market

- Ensures the functioning of the railway services market
- Promotes market competition
- Prevents distortion or restriction of market competition
- Removes obstacles to market access and functioning
- Ensures access to rail services in a transparent and non-discriminatory manner
- Provides legal protection to applicants
- Contributes to the development of the single European market
- Monitors the state of competition on the railway services market
- Proposes legislative changes and participates in foreign and domestic working groups
- Carries out inspections in the area of regulation of the railway services market
- Conducts consultations, round tables and creates educational materials

JURISDICTION – Protection of passenger rights

- implementation of Regulation (EU) no. 2021/782 on the rights and obligations of passengers in rail traffic
- acting on official duty in protecting the rights of passengers
- resolution in the procedure at the request of the passenger in connection with the complaint to the commission for consumer complaints at the railway carrier
- inspection supervision in the area of passenger rights protection
- proposing legislative changes and participating in foreign and domestic working groups on the protection of passengers' rights
- conducting inspections in the area of passenger rights protection
- conducting consultations, round tables and creating educational materials

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LIBERALIZATION OF RAIL freight MARKET IN EU

- "Liberalization“
  - a technical concept that describes the processes of market restructuring and changes from monopolistic markets to an open market .
  - an instrument that should contribute to railway traffic becoming more efficient and competitive.
- The European Union has been dealing with liberalization of railway services since the late 1980s and the EU has proposed certain legislative frameworks. The legislative proposals, which had to be taken over by all the Member States, recommend making conditions for a non-discriminatory access to the railway market.
- Opening of the rail transport market for all operators.
- The main goal: to create conditions for the liberalization of railway transport in order to establish a single European railway area, which should be based on competition between historical and new Rus.

LIBERALIZATION OF RAIL freight MARKET IN EU

- The process of liberalization of the rail transport market is possible only on the basis of compliance of national legislation with the rules set by the European Union
- The first legislative and practical liberalization appeared in the early 1990s
- The process from legislative to practical liberalization in most cases takes more than four years.
- The most important obligation was to separate the management of the railway infrastructure from the railway transport.
- Considering the way of organization, we distinguish between three models:
  - Vertically integrated railway companies
  - Railway companies with separate functions of charges collection and capacity allocation
  - Railway companies as separate entities

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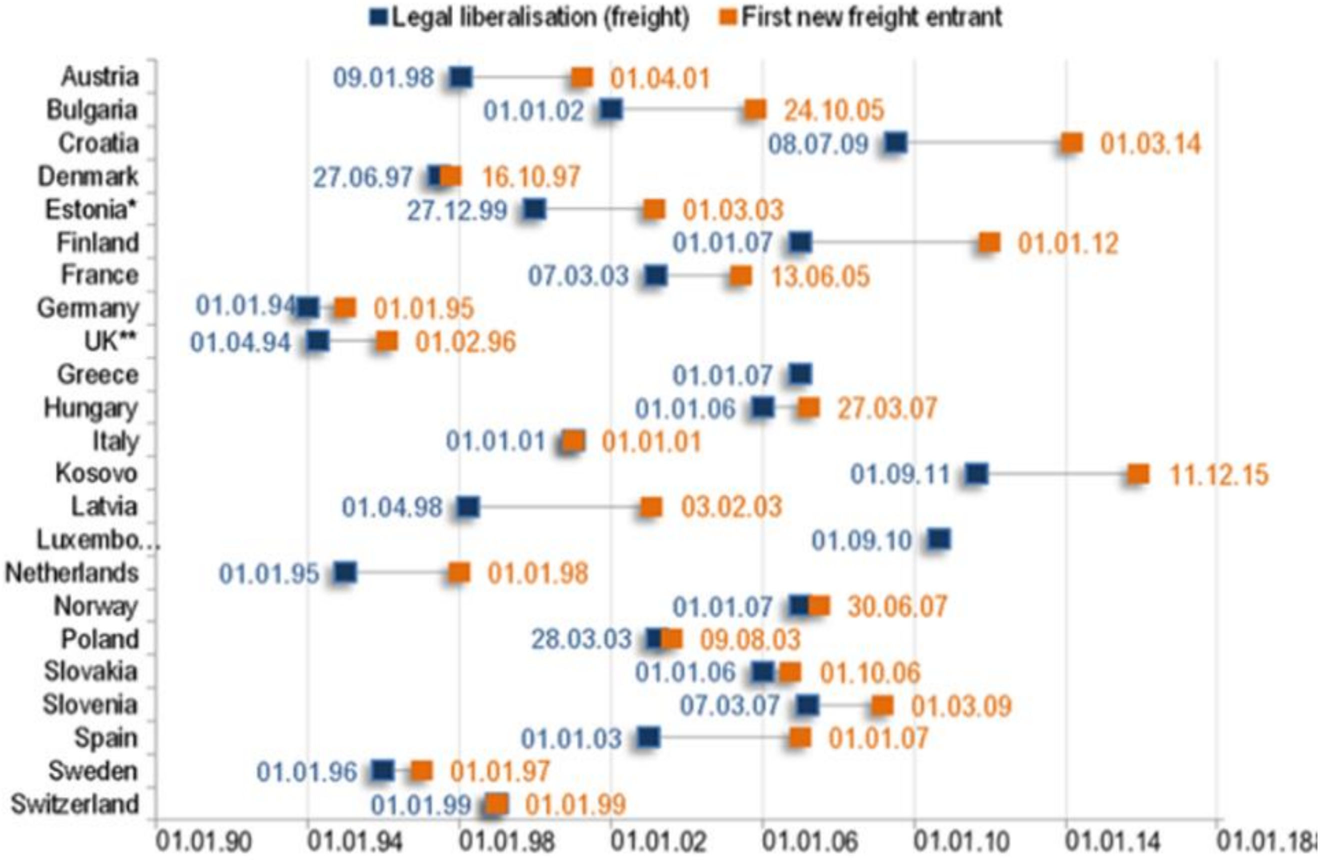
LIBERALIZATION OF RAIL freight MARKET IN EU



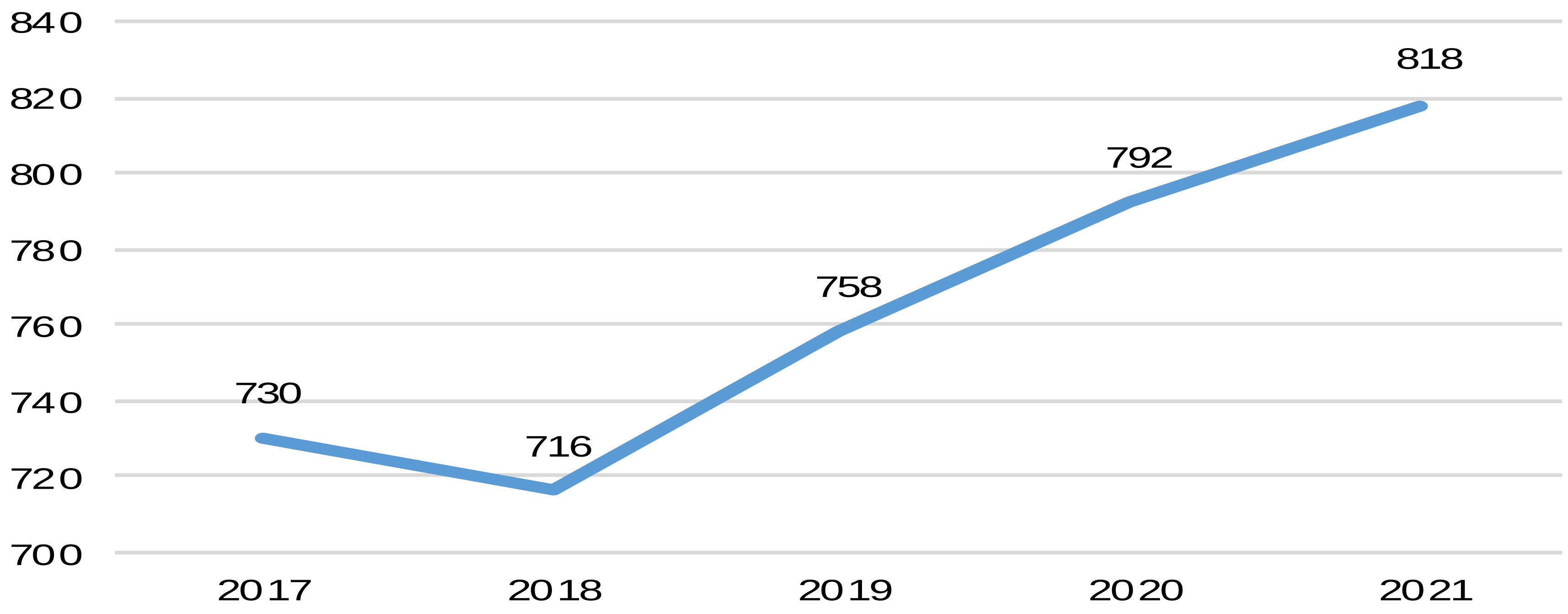
* Estonia had a new freight entrant before legal libalisation on 1st March 2003
** United Kingdom : The dates given refer to the liberalisation of the market in Great Britain. The rail market in Northern Ireland continue to be owned by the state.
Where exact dates are not available, they have been set to the appropriate year.

- In 26% of the 23 presented IRG-RAIL member states, practical liberalization took place within a year of legislative liberalization
- In 22% of the member states, practical liberalization took place two years after legislative liberalization
- In 52% of the Member States, new freight Rus started their first transport activities after two or more years

LIBERALIZATION OF RAIL freight MARKET IN EU

- In 2021, there are 88 more RUs in freight transport in the territory of 31 member countries of IRG-Rail compared to 2017 (according to data from 11. MMR of IRG-Rail)

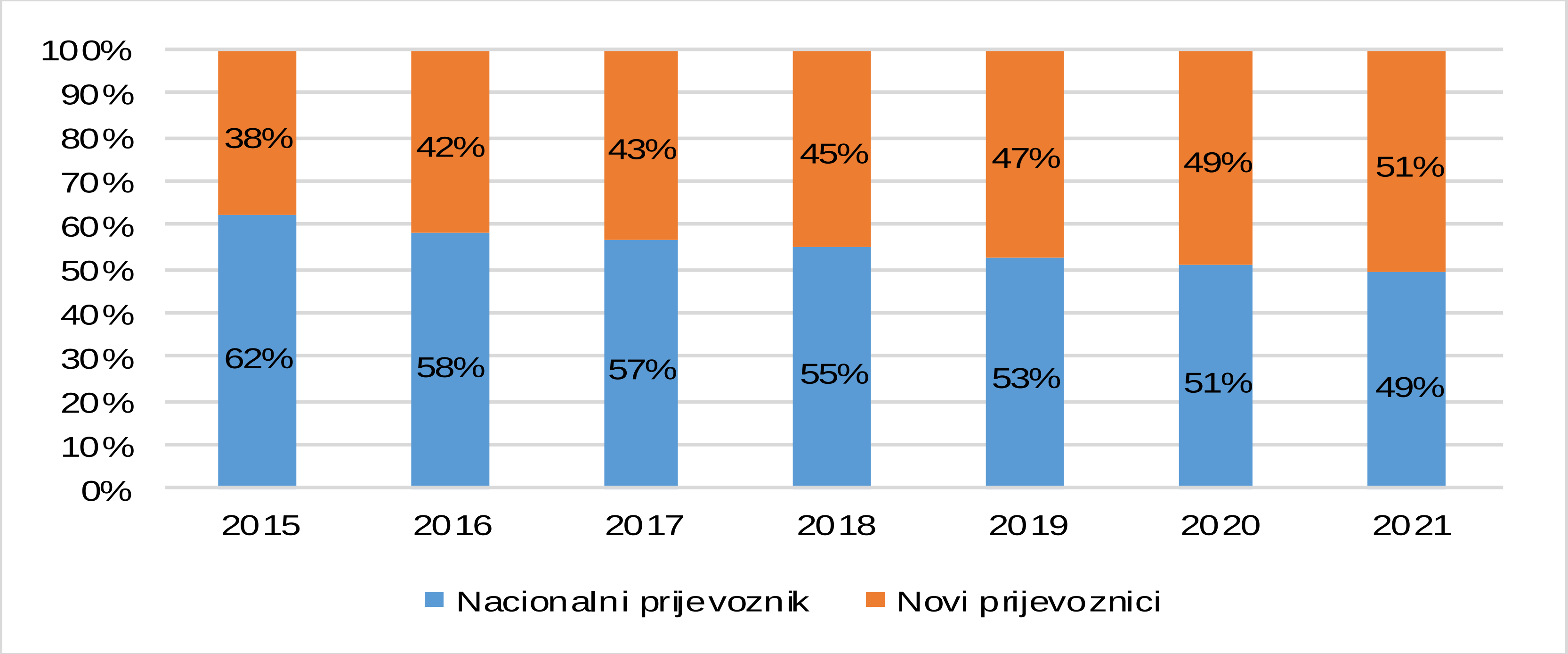
Total number of rail freight carriers for IRG-Rail member states from 2017 to 2021.



LIBERALIZATION OF RAIL freight MARKET IN EU

- New freight RUs increased their share from 38% in 2015 to 51% in 2021.

Shares of net ton kilometers achieved by national incumbent and other RUs in IRG-Rail member countries from 2015 to 2021.



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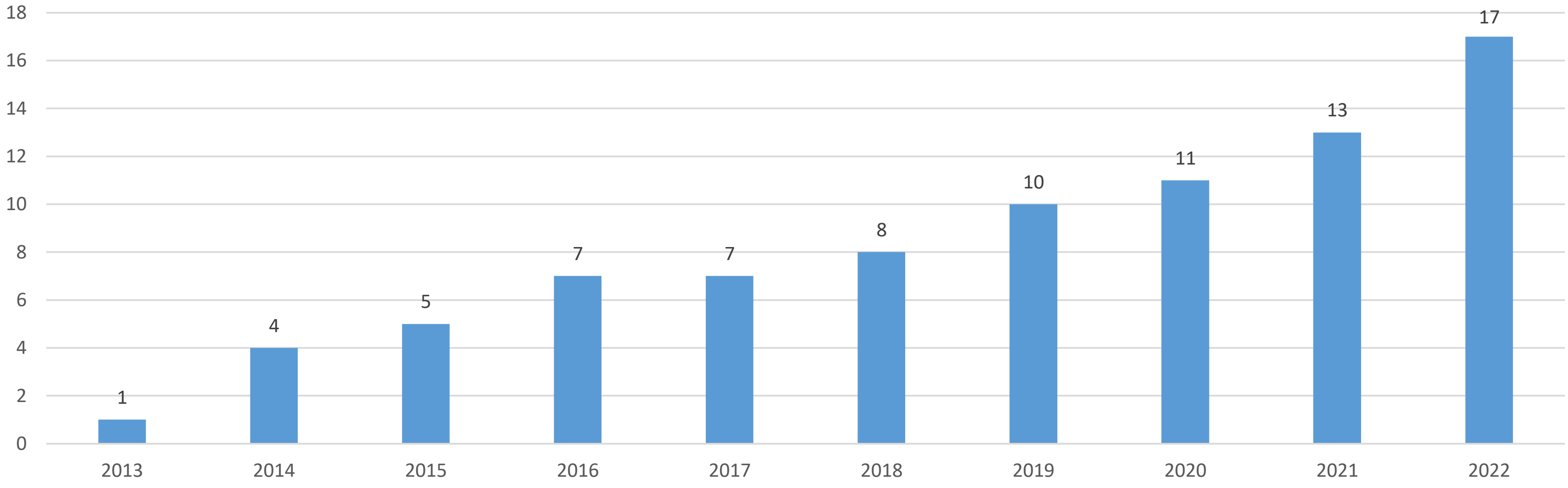
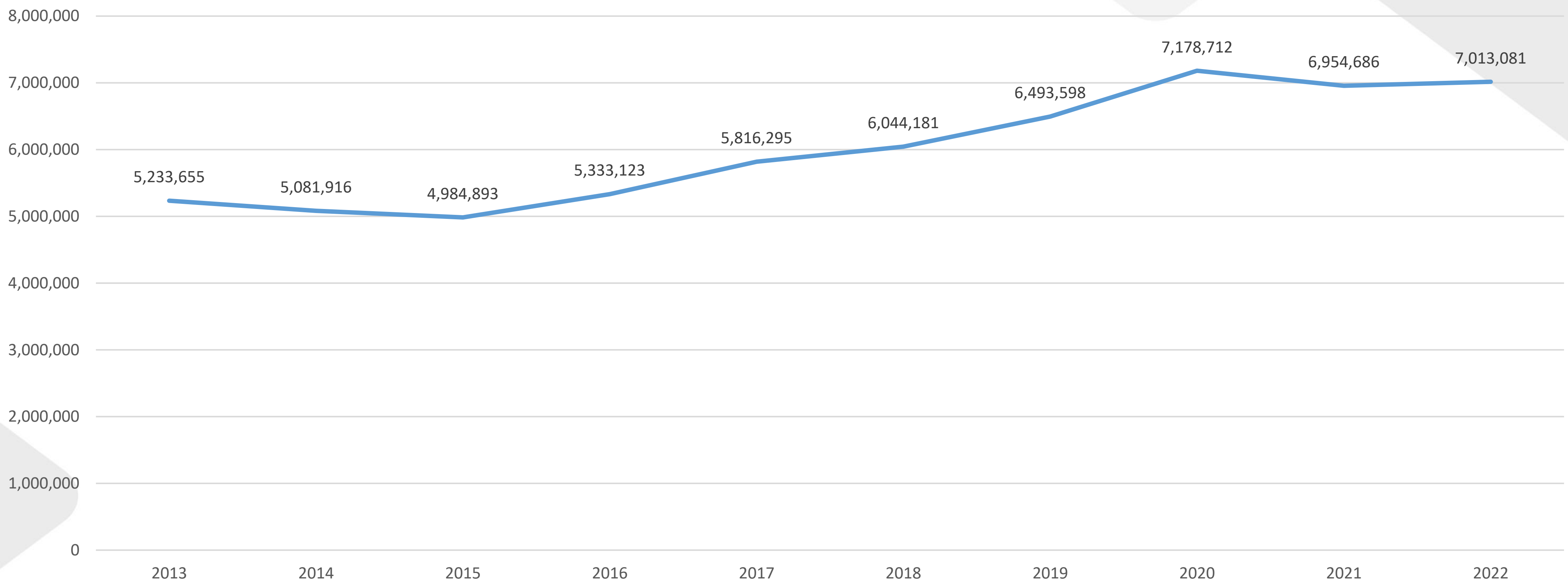
LIBERALIZATION OF RAIL FREIGHT MARKET IN RH

Total number of freight RUs in the Republic of Croatia from 2017 to 2022.



Market Development Indicators: Market shares in realized train/kilometers



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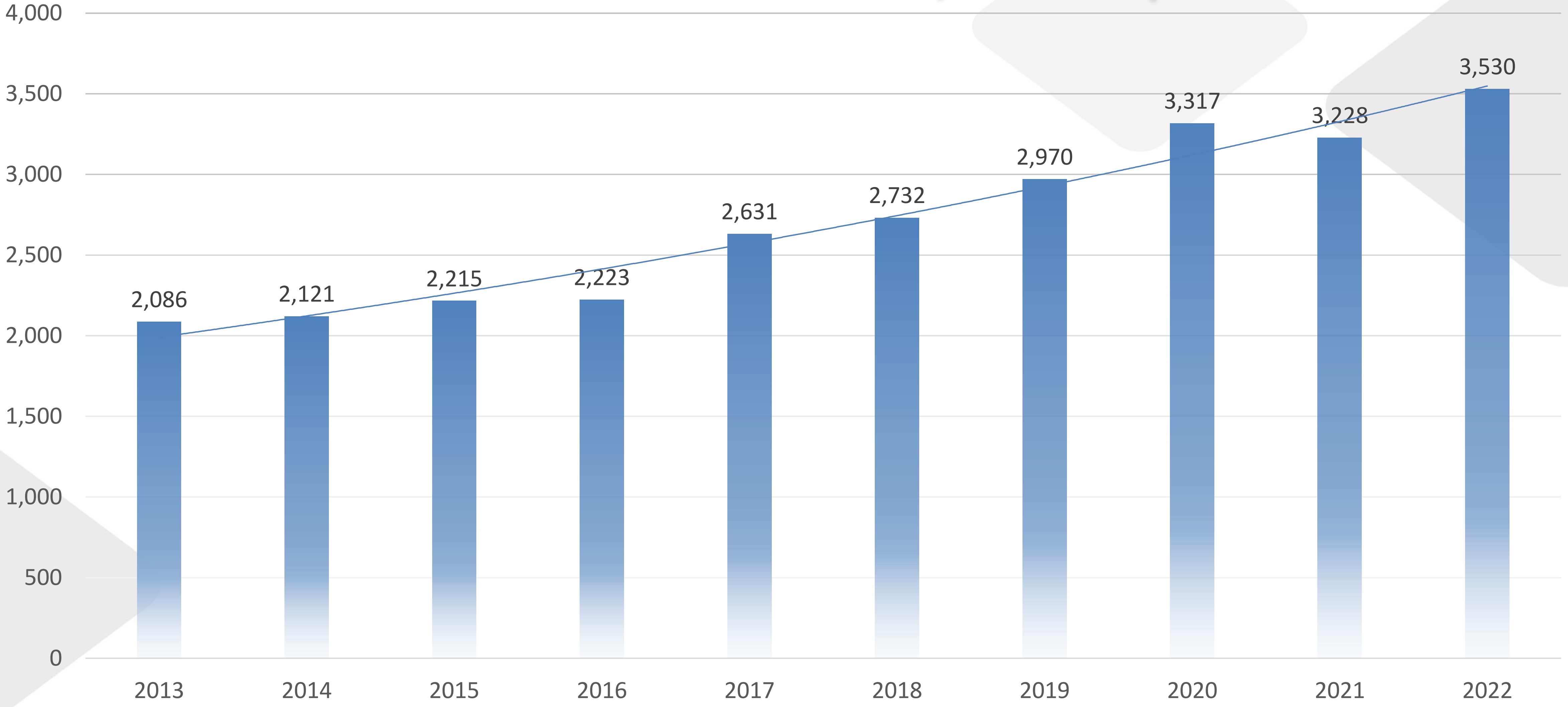
Market Development Indicators: Realized Nettons/km –all operators



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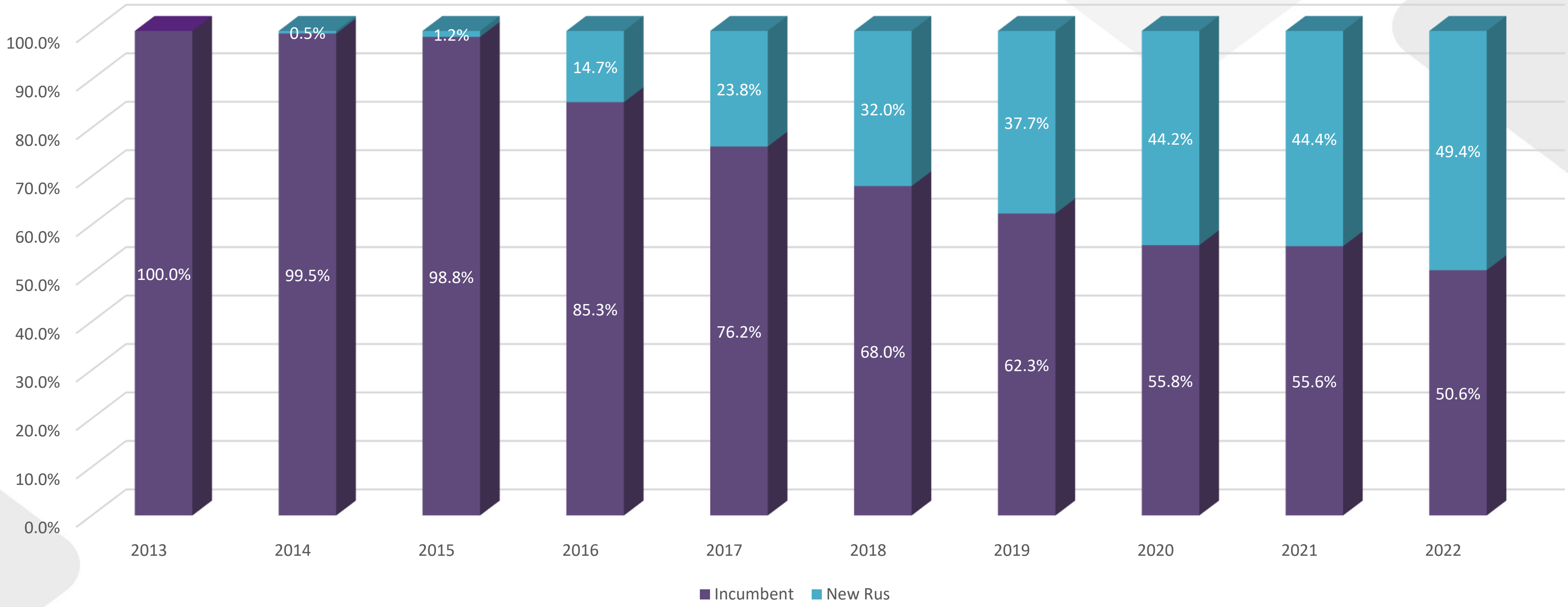
Market Development Indicators: Market shares in realized train/kilometers



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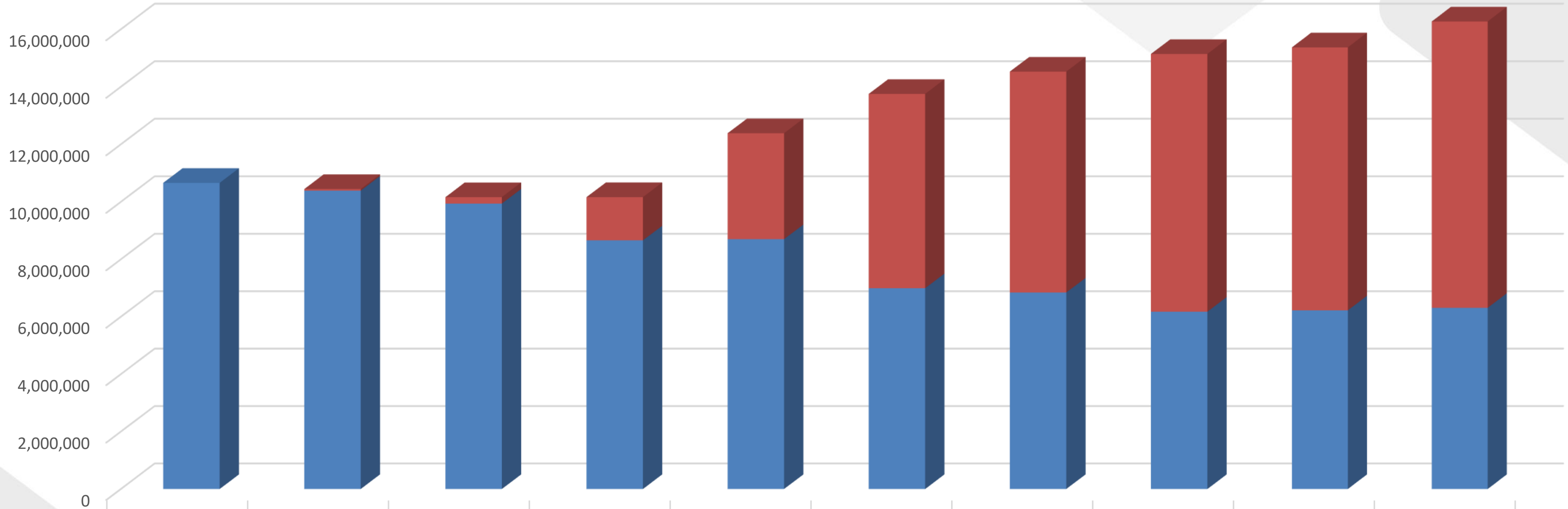
Market Development Indicators: Market shares in transported goods



	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
New RUs	0	56,099	223,976	1,503,317	3,683,356	6,758,156	7,683,432	8,964,781	9,147,629	9,959,692
Incumbent	10,659,000	10,389,501	9,939,146	8,660,605	8,701,329	6,993,962	6,843,534	6,176,461	6,222,183	6,310,652

Incumbent New RUs

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Market Development Indicators: Herfindahl-Hirschman index (HHI)

- Common measure of market concentration and is used to determine market competitiveness.
- HHI is calculated by squaring the market share of each firm competing in a market and then summing the resulting numbers.

Year	Tons of goods	Train/km	Nettotons/km
2013.	10.000	10.000	10.000
2014.	9.893	9.896	9.911
2015.	9.568	9.758	9.720
2016.	7.344	7.359	7.539
2017.	5.169	5.951	5.996
2018.	3.222	4.862	4.588
2019.	2.919	4.183	4.039
2020.	2.465	3.474	3.359
2021.	2.464	3.480	3.370
2022.	**2.215**	**2.992**	**3.226**

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REGULATORY DISPUTE

- In September 2022. one private RU (applicant) submitted a request to resolve the dispute regarding the services and charges of the infrastructure manager
- The applicant points out that an IM carries out a large number of construction works on almost all vital sections of railway lines in the Republic of Croatia, and numerous planned and unplanned line closures affect the traffic of trains, the costs of engaged capacity, the quality of service to the customers and the risk of loss of them, as well as business profitability
- The charges for the services provided by the IM are the same or similar from year to year, although the condition of the railway network is getting worse
- An average twice as long "transit time" from Rijeka to Koprivnica State Border in the period July - August 2022 compared to the same period in 2021.
- Applicant specifies the charges that he considers should be reduced:
  - the charges for the minimum access package for freight trains,
  - the basic price per train kilometer for freight trains "Cvlkm" trains,
  - the parameters of lines belonging to individual lines to the corresponding group of lines
  - charges for capacity reservation/non-use of assigned routes

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REGULATORY DISPUTE

- HAKOM made a comprehensive analysis and concluded that there are several groups of reasons for extending the transit time planned than realized:

    - non-observance of the timetable (especially the time of departure)
    - technical complexity of the route,
    - unmaintained and outdated infrastructure,
    - inadequate border treatment by the neighboring country,
    - numerous renovation works, some of which are not even planned exactly nor are they implemented in the least predictable terms and which lead to many hours of railway closures,
    - unprofessional and one-sided decisions of the RU

- HAKOM ordered by decision that IM is to prescribe in detail and establish a system of quality indicators (performance scheme), and to introduce a special system for resolving disputes related to the performance scheme, in accordance with Article 51 of the Railway Act starting from the entry into force of the 2023/2024. timetable in relation to freight transport

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CONCLUSIONS

- Liberalization of the rail freight transport market is a complex, legally demanding and operationally long-lasting process
- In 2014, the new railway freight undertakings (RUs) started their first transport activities
- Positive indicators of the development of the railway services market in the Republic of Croatia
  - Number of RUs, tn/km, tr/km, revenues ...
- In the period from 2014. to 2022., the new RUs have almost equaled their share in realized net tons and train kilometers with the domestic incumbent, while in the realization of tons of transported goods they participate with more than 60% of the market share
- the European average of the share of incumbent in relation to new RUs in train/km was reached in 2019. on the Croatian market (in just four years)
- Minimum Access Package charges almost unchanged from 2016 to 2022.
- Restructuring of the incumbent (2015. number of employees - 2085, 2022. number of employees - 1063)
- After the expansive growth of new carriers, in recent years the market has been "stabilized" in terms of market shares
- The challenges of the development of freight transport due to the large infrastructure works that follow on the network
- A "school" example of liberalization and market development, when one looking at statistical indicators, but…

Thank you for your attention!

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