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DIRECTORATE-GENERAL FOR ENERGY AND TRANSPORT

Director-General

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Ms Monika Heiming
Secretary General
ERFA
1, Av. De la Renaissance
1000 Brussels

Mr Michael Robson
Secretary General
EIM
21, Rue de la Tourelle
1040 Brussels

Subject: Recent energy court ruling in Germany

Dear Ms Heiming,

Dear Mr Robson,

Thank you for your letter dated 24 November 2006 informing me about the recent ruling of the Higher Regional Court in Frankfurt/M. concerning traction current pricing and your assessment of its likely impacts on access to the rail freight market in Germany and the rest of the Community.

The court ruling could have an important bearing on the economic conditions of access to the rail freight market in Germany, in particular the non-discriminatory access for railway undertakings to traction energy in Member States where this service is provided by companies that are part of a railway holding.

My services have started to assess the court ruling in the light of the German implementation legislation for the 1st railway package, in particular Directive 2001/14/EC, and relevant Community legislation.

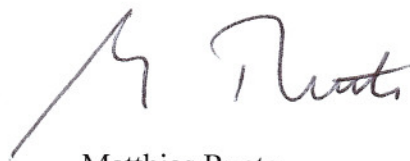
From a preliminary analysis it appears that the court ruling raises a number of questions as to the manner Germany has transposed Directive 2001/14/EC, in particular the pricing rules for rail related services such as traction energy.

Before drawing final conclusions my services have to assess more in depth the implications of the court ruling possibly on the basis of supplementary information from the Member States concerned.

The Commission will also draw on the analysis carried out by a study consortium in the framework of the SERVRAIL project ("Study on the assessment of present and likely future conditions of providing rail-related services"). A final report is expected to be presented in the coming weeks.

Based on the results of its assessment the Commission will decide on the appropriate follow-up that this important issue deserves.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M Ruete', written in a cursive style.

Matthias Ruete