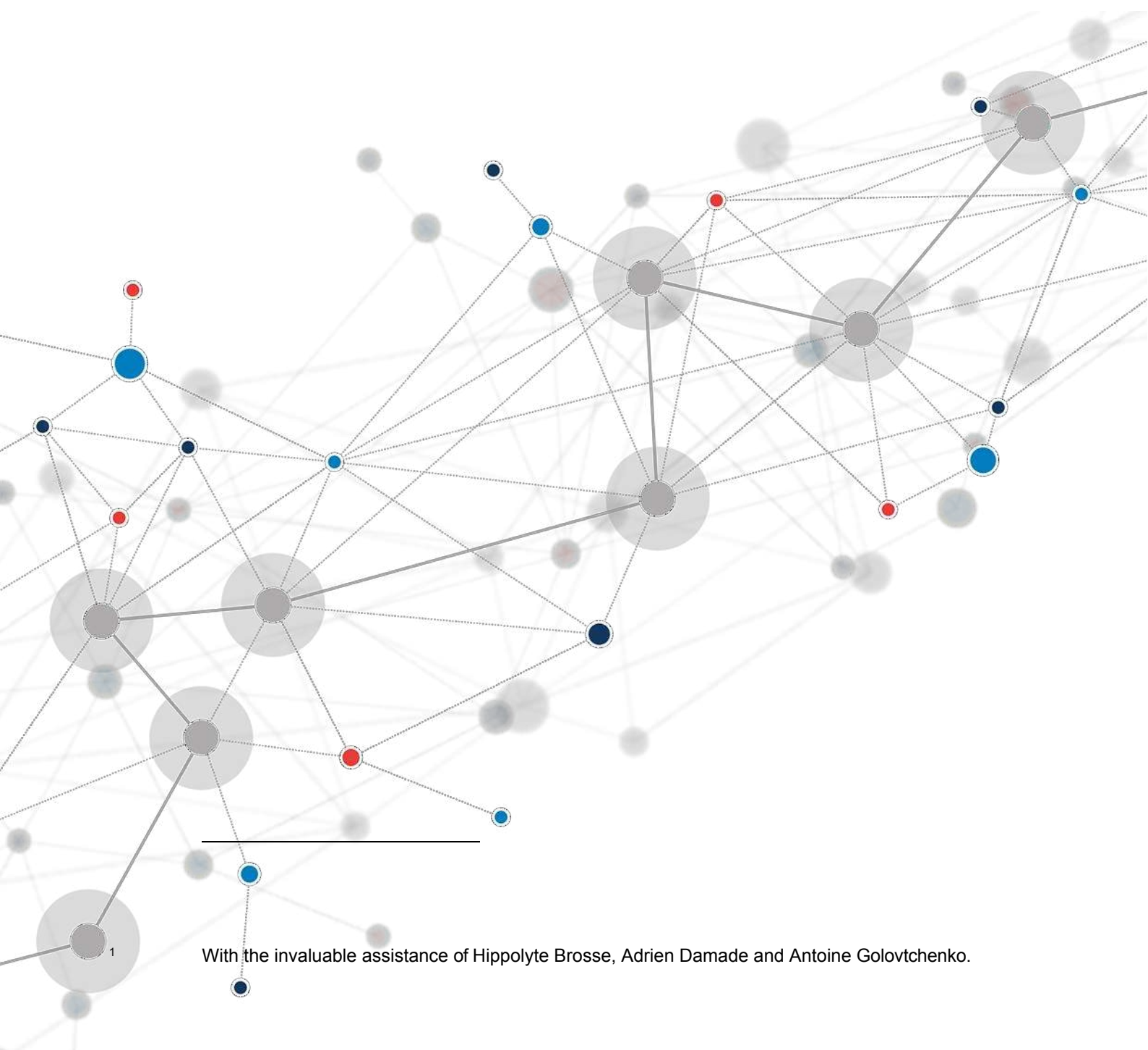


On the level of commission applied by SNCF for the distribution of its train tickets **A** report for ADN Mobilités

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8 October 2024

Not confidential



1 With the invaluable assistance of Hippolyte Brosse, Adrien Damade and Antoine Golovtchenko.

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1 Introduction and summary of conclusions

Context

A few years after opening up to competition, SNCF still operates the bulk of passenger rail transport in France

- 1.1 After plummeting as a result of the Covid 19 health crisis, the rail passenger transport market in France gradually regained its importance before recently returning to and even slightly exceeding pre-crisis ^{levels}².
- 1.2 At the same time, the French passenger transport market continues to be opened up to competition, following the adoption of Europe's "fourth rail package" in ²⁰¹⁶³. By 2022, the French transport regulator (**ART**) had received applications from five alternative operators to operate on the French rail network.⁴ The ART is currently considering these applications.
- 1.3 In practice, however, SNCF Voyageurs ("**SNCF**"), the incumbent French operator, is currently competing in France only with Trenitalia, on the Paris-Lyon and Paris-Chambéry-Modane-Turin-Milan routes, and with Renfe, on the Lyon-Barcelona and Marseille-Madrid ^{routes}⁵. Although foreign operators have been able to enter the French market since it was opened up to competition, at this stage they only offer a limited number of routes, either between major cities or to and from countries where they are the incumbent operators.
- 1.4 These international operators should gradually be joined by other third-party operators, such as ^{Proxima}⁶, ^{Kevin} ^{Speed}⁷, ^{Flixtain}⁸ and ^{LeTrain}⁹. Initially, these operators plan to operate on smaller lines, but in the longer term they are also planning to invest in the French high-speed network.
- 1.5 As competition has only recently been opened up, the activity of new entrants is still limited, and SNCF still enjoys a pre-eminent position in the French passenger transport market.

² ART - The French rail transport market in 2022, page 21.

³ Source: <https://www.autorite-transports.fr/le-ferroviaire/le-cadre-juridique/les-paquets-ferroviaires/en-savoir-plus-sur-les-paquets-ferroviaires/>

⁴ ART - Study on the opening up of passenger transport services to competition, 2022, page 29.

⁵ Thalys (until October 2023) and Eurostar also operate in France, but SNCF has a stake in them.

⁶ Source: <https://lerrail.com/news/82160-lancement-de-proxima,-premi%C3%A8re-compagnie-fran%C3%A7aise-independante-de-train-%C3%A0-grande-vitesse#:~:text=Proxima%20will%20in%20a%20first%20connect%20cities%20of%20the%20fa%C3%A7ade%20Atlantique.>

⁷ Source: <https://www.kevin-rail.com/comment-ca-marche->

⁸ ART - Study on the opening up of passenger transport services to competition, 2022, page 76.

⁹ ART - Study on the opening up of passenger transport services to competition, 2022, pages 76-77.

- 1.6 The ART estimates SNCF's market share of freely organised passenger rail transport in France at 98% in ²⁰²²¹⁰. After a theoretical opening to competition in 2019, the French market will see competition develop at a ^{limited} pace¹¹.
- 1.7 This is also the case for conventional services, for which a call for tenders has been compulsory since 25 December ²⁰²³¹². Of the five TER lots awarded since that date, three have gone to SNCF and two to a third-party operator: Transdev. In addition, three of the regions that are supposed to put their conventional services out to tender have renewed their contracts with SNCF in ^{advance}¹³.

Despite the arrival of alternative distributors, SNCF still dominates the distribution of rail tickets in France

- 1.8 In addition to the rail passenger transport market, competition is also gradually developing on another market in the rail sector: train ticket distribution, which the Autorité de la concurrence has identified as "*a product market separate from but related to the rail passenger transport market*"¹⁴.
- 1.9 As SNCF still operates the bulk of passenger rail transport, the distribution of train tickets in France today is mainly based on SNCF train tickets. This situation is likely to change as competition develops in passenger transport, but this is likely to be a slow process.
- 1.10 Consumers can now buy SNCF tickets online:
- a. Or directly from the SNCF, via its "**SNCF Connect**" distribution ^{platform}¹⁵ ;
 - b. Or via intermediaries: "**independent distributors**".
- 1.11 **Trainline**, **Omio** and **Kombo** fall into the category of independent distributors. These three competitors of SNCF Connect recently created "**ADN Mobilités**", the French association of platforms for the digital distribution of transport and mobility tickets, to defend the interests of independent train ticket distributors.
- 1.12 Table 1 below shows estimated market shares for the online distribution of train tickets to the general public in France.

Table 1: Estimated market shares for online distribution of GP train tickets

Distributor	Market share
SNCF Connect	80%-90%
Other rail operators	<1%
Members of ADN Mobilités	9%-15%

¹⁰ Market share in "Passengers.Km". Source: ART - The French rail transport market in 2022.

¹¹ By way of illustration, the incumbent operator's average market share for passenger transport was 75% in all European countries. Source: 12th Annual Market Monitoring Report (2024) IRG-rail.

¹² <https://www.laviedurail.com/actualites/ter-ou-en-est-louverture-a-la-concurrence-le-point-region-par-region/>

¹³ ART - The French rail transport market in 2022, page 26.

¹⁴ Decision 09-D-06 of 5 February 2009 concerning practices implemented by the SNCF and Expedia Inc. in the online travel sales sector. Underlining added.

¹⁵ Formerly Voyages-sncf.com, then Oui.sncf.

Table 1: Estimated market shares for online distribution of GP train tickets

Other independent distributors	0%-5%
--------------------------------	-------

Source: Compass Lexecon based on ADN Mobilités and ART figures.
Note: Market share estimates depend on the sources used and the method of calculation adopted. We use three sources to estimate market shares, leading to the ranges shown in the table: (i) an analysis prepared by OC&C analysis for Trainline presenting market shares for distribution, (ii) distributors' sales compared with the estimated market size, (iii) the estimated market share for the distribution sector, (iv) the estimated market share for the distribution sector, (v) the estimated market share for the distribution sector, and (vi) the estimated market share for the distribution sector.
by the ART and (iii) the number of tickets sold by distributors.

- 1.13
- According to these estimates, the members of ADN Mobilités are among the main players in the market for the distribution of dematerialised train tickets to the general public. However, their market share remains very limited at this stage, with SNCF still distributing the vast majority of its dematerialised train tickets itself, via SNCF Connect.
- 1.14
- Independent distributors are authorised to distribute SNCF tickets following approval by the historic operator. The price paid by the consumer is set by SNCF¹⁶. Distributors offer a distribution service to SNCF, which the latter remunerates through a commission, generally proportional to the price of the ticket.
- 1.15
- The basic rate of this commission is set by collective agreements. In 2024, it is set at 2.9% for the distribution of SNCF tickets excluding Ouigo¹⁷. For Ouigo tickets, it is 1%¹⁸.
- 1.16
- We understand that independent distributors also have the possibility of negotiating additional remuneration with SNCF on a bilateral basis. This remuneration may, for example, be in return for marketing efforts or for certain types of ticket. However, these additional revenues are relatively limited compared to the basic commission. Thus, in 2023, for each of the three members of ADN Mobilités, the average commission paid by SNCF for all tickets distributed to French customers, including any additional remuneration, was between [x] and [x]¹⁹.
- 1.17
- Furthermore, the distribution of SNCF tickets by third parties requires them to access the SNCF's offer access portal ("PAO"). Access to the PAO gives rise to unavoidable costs, representing around 1% of the ticket sale price s distributed for a new entrant²⁰. To assess the net remuneration of independent distributors on the sale of SNCF tickets, these PAO costs must be deducted from the commission rates mentioned above.

16

However, some independent distributors may apply additional charges to the ticket price or discounts.

17

https://www.tourmag.com/EDV-Quelle-est-la-nouvelle-convention-de-distribution-signe-avec-la-SNCF_a117145.html

18

https://www.tourmag.com/EDV-Quelle-est-la-nouvelle-convention-de-distribution-signe-avec-la-SNCF_a117145.html

19

Here and in the remainder of this non-confidential version of the report, this symbol replaces information covered by business confidentiality.

20

We understand from the DTP access contracts signed between SNCF and distributors that DTP fees are calculated in euro cents per ticket, and are degressive with the number of tickets sold. ADN

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conclusions

Mobilités members' average PAO fees are therefore between [x] and [x]. In reality, a new entrant (with, by definition, a low volume of sales) would face DTP costs of more than 1%.

This report examines the economic space currently available to independent distributors in the French market.

- 1.18 In this context, ADN Mobilités asked the Compass Lexecon team to conduct an economic analysis of the French train ticket distribution market.
- 1.19 In particular, we were asked to provide a competition economist's perspective on the levels of commission currently granted by SNCF and on the anticipated effects of a possible increase in these commissions on competition and consumer welfare.

Main conclusions of our analysis

An increase in commission seems necessary to ensure the viability of independent train ticket distributors.

Commissions paid by the SNCF are the main source of income for independent distributors

- 1.20 The level of commission paid by the SNCF is central to the income of train ticket distributors. Given its model, a ticket distributor whose business is centred on the distribution of train tickets necessarily derives most of its income from the commission paid by SNCF.
- 1.21 This is due in particular to the fact that the price of train tickets is still set, in practice, by SNCF and that this price covers distribution. Since the SNCF does not apply an additional price for distribution when it distributes its tickets via its own platform, a distributor competing with SNCF Connecte does not have the possibility, if it wants to be able to propose a competitive offer, to invoice its customers for its ^{service}²¹.
- 1.22 If independent distributors are to survive in the market, it is essential that they charge a sufficient level of commission to ensure that their business is profitable in both the short and long term.

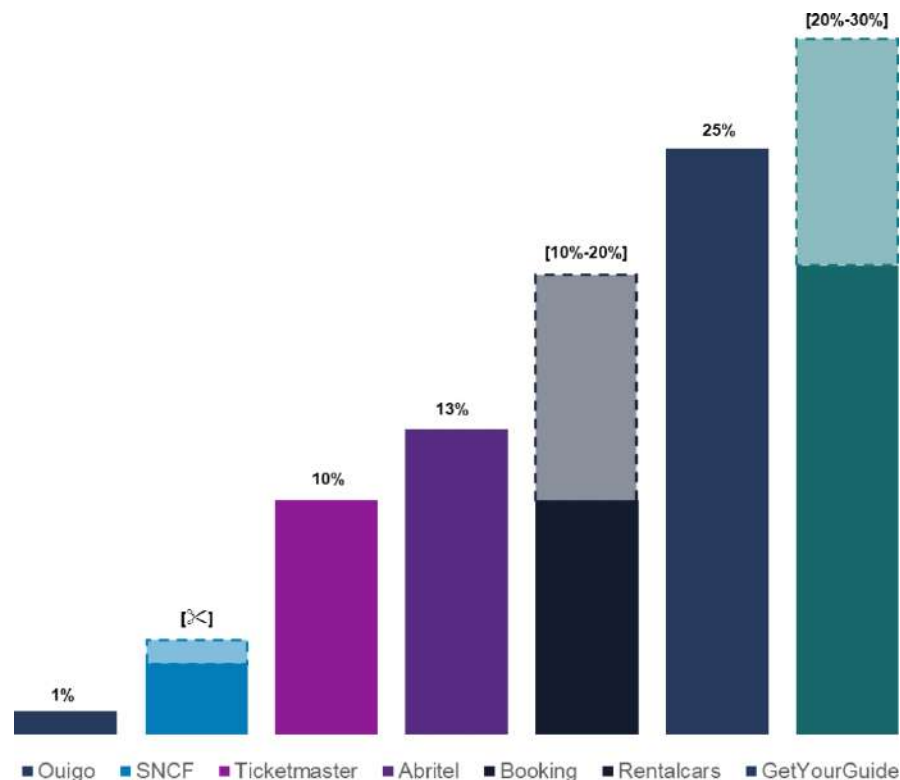
The levels of commission granted by SNCF appear relatively limited compared with other commissions of the same type

- 1.23 Although it must be interpreted cautiously, a comparison with commissions charged in relatively similar markets suggests that SNCF's commission level - around 3% - is relatively low.
- 1.24 Figure 1 below compares SNCF's commission levels with those in other distribution ^{markets}²².

²¹ Distributors can also generate additional income from certain ancillary services, but this income is limited by nature.

²² This comparison is detailed in paragraph 2.57 *below*.

Figure 1: Comparison of SNCF's commission levels with other distribution markets



Source: Compass Lexecon based on public data and ADN Mobilités.

Note: The "SNCF" bar represents an indicative range for the average commissions received by ADN Mobilités members on French customers, including additional remuneration.

- 1.25 This graph shows that the commission paid by SNCF (excluding Ouigo) is between two and ten times lower than the commissions paid to intermediaries in relatively comparable markets. Taking into account the Ouigo activity, where commission is particularly low, accentuates this difference even more.
- 1.26 This difference in commission is all the more striking given that the distribution of online train tickets is a complex activity and cannot be summed up by the simple development of a *front-end* application²³, which would simply act as a relay between the carrier's systems and the passenger.
- 1.27 In practice, train ticket vending machines handle complex, customised products whose prices vary over time. Independent retailers therefore need to develop a wide range of features to reflect these characteristics, and to integrate different options and new features on an ongoing basis. Dimensions involving development and operating costs for train ticket distributors include season tickets, discount cards, seat selection, options on Ouigo journeys, cancellations and refunds, and after-sales service.

²³

The front-end is the part of a site or application that a user interacts with.

Current commission levels lead to losses for independent distributors on the French market

- 1.28 Above all, it appears that the levels of commission currently charged by SNCF are leading to losses for distributors operating in France. Each of the three members of ADN Mobilités has suffered significant losses since entering the French market.
- 1.29 Table 2 *below* shows the respective operating margin levels for Trainline, Omio and Kombo France between 2017 and 2023, based on the distribution of train tickets in France.

Table 2: Operating margin for Trainline, Omio and Kombo in France from 2019 to 2023

Distributor	2019	2020	2021	2022	2023
Trainline	[<]	[<]	[<]	[<]	[<]
Omio	[<]	[<]	[<]	[<]	[<]
Kombo	[<]	[<]	[<]	[<]	[<]

Notes: (1) From 2019 to 2022, Trainline's operating margin is calculated using data specific to SNCF, while in 2023 the scope is extended to all operators. (2) Trainline's operating margin does not take into account common costs (linked to teams, systems and overheads), depreciation and amortisation, financing costs or equity costs, as these costs are managed at group level. If all or part of its costs were allocated to France, Trainline's operating margin would be negative in 2023. (3) Omio's operating margin is specific to the rail segment in France. (4) Kombo's operating margin includes all modes of transport, although trains account for the majority of Kombo's revenues.
Source: Compass Lexecon based on ADN Mobilités data.

- 1.30 These results show that the operating margin of the three distributors has been systematically negative since ²⁰¹⁹²⁴ on the scope of activity considered in this report.
- 1.31 Admittedly, the (lack of) profitability of these operators depends on a number of factors, and it cannot be dismissed out of hand that these losses may reflect poor management or inefficient organisation. However, this explanation is unlikely given that we are dealing with three distinct entrants who have recently set up ad hoc structures and who have clear incentives to operate efficiently. It should also be noted that Trainline and Omio are profitable in the UK and Germany, their respective home countries.
- 1.32 Another more credible explanation is that the levels of commission currently granted by SNCF are insufficient to cover the costs of operating an independent train ticket distributor - particularly when it distributes a relatively limited volume.
- 1.33 This explanation is all the more likely as the level of commission is in practice set by ^{SNCF}²⁵, which has no obvious economic incentive to apply a sufficient level of commission. Firstly, these commissions represent a cost for SNCF. Secondly, they constitute the main income of distributors with whom its distribution branch is in competition. SNCF therefore has a double incentive to limit these commissions.

²⁴ [<]

²⁵ In practice, the commission is set at the end of an agreement with the distributors. However, as discussed *below*, the distributors have no negotiating power, leaving SNCF free to set the commission it grants.

The commission levels applied by SNCF could imply the existence of a price squeeze

- 1.34 A "**price squeeze**" can occur when the economic space between the wholesale and retail prices of a vertically integrated undertaking is not sufficient to cover the costs associated with its activity on the downstream market. If the input sold on the upstream market by the integrated firm is unavoidable, the firm's competitors are automatically unable to compete on the downstream market without incurring losses.
- 1.35 In this case, it seems likely that independent distributors could be caught in a price squeeze since the economic space set up by SNCF for their activity does not seem to allow them to compete with SNCF Connect without incurring losses.
- 1.36 The existence of a price squeeze is generally tested on the basis of the integrated company's costs, in order to ensure an economic space for competitors who are *at least as efficient*. This approach also provides legal certainty for the integrated operator, giving it the possibility of checking whether its fares give rise to a margin squeeze by relying solely on information relating to its own activities. In this case, the test involves checking whether SNCF Connect, the SNCF branch responsible for online distribution, would be profitable if its internal revenues were based on the commission levels paid by the SNCF to independent distributors.
- 1.37 As we do not have the SNCF's cost data, we are not in a position to carry out a real fare squeeze test. However, we can carry out an indicative calculation based on data from ADN Mobilité members and publicly available data.
- 1.38 In concrete terms, we carry out this test using the following hypotheses:
- a. SNCF's online distribution costs are based on the operating costs published in SNCF Connect's corporate accounts for 2022: 186 million euros²⁶.
 - b. The theoretical income that SNCF Connect would receive if its remuneration were based on SNCF commissions is estimated on the basis of commission income from ADN Mobilité members and market shares²⁷ : approximately 154 million euros.
 - c. These estimates suggest that SNCF's online ticket distribution business could be loss-making, as estimated revenues are more than 30 million below costs, which would represent a loss of -20%.
- 1.39 These different amounts and the resulting indicative margin squeeze test are illustrated in Figure 2.

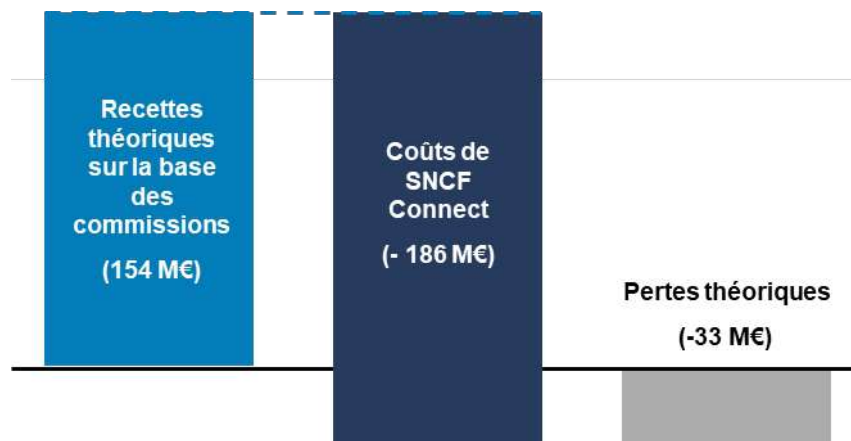
²⁶ Source : pappers.fr

²⁷ These revenues have been estimated by multiplying the aggregate amount of commissions paid by SNCF to ADN Mobilités members over the year 2023 ([∞]) by the ratio of SNCF's market share and the aggregate market share of ADN Mobilités members on distribution (ratio of [∞]). Market shares are estimated on the basis of ADN Mobilités data. It should be noted that the amount of commissions is likely to be overestimated insofar as the basket of tickets distributed by ADN Mobilités members

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probably contains a higher proportion of TGVs (whose tickets are more expensive on average) than the basket of tickets distributed by SNCF Connect. This overestimation implies a conservative dimension to the test.

Figure 2: SNCF Connect's theoretical losses based on commissions



Source: Compass Lexecon based on public data and ADN Mobilités data.

- 1.40 This result should be interpreted with caution because, as the data required for a precise test is not available, it is an indicative estimate, the result of which depends heavily on the reliability of the various parameters used for the calculation. Nevertheless, these orders of magnitude confirm the credibility of the hypothesis of a margin squeeze and therefore of commission levels that are too low.

Given that this is a market that has recently been opened up to competition, proactive intervention by the public authorities seems advisable.

- 1.41 If it is found, the implementation of a price squeeze by a player occupying a dominant position on the upstream market constitutes an anti-competitive practice. The issue of the acceptable level of commission for the distribution of SNCF train tickets could therefore, in principle, be approached from the angle of competition law.
- 1.42 However, because of the way it operates, competition law can in principle guarantee the maintenance of competition, but it is not necessarily sufficient to establish a competitive situation in a market that has historically been subject to a state monopoly.
- 1.43 Where it is considered that, due to a market failure, it is not obvious that the *ex post* control of competition law will be sufficient to guarantee the rapid establishment of effective and fair competition on a given market, the implementation of sector-specific regulation, in addition to the application of competition law, may be deemed appropriate and measures adopted to guarantee a market functioning conducive to the development of viable competing offers.
- 1.44 For example, after the electronic communications market was opened up to competition, the sector regulator implemented *ex ante* price controls on Orange's (then France Télécom) offerings, to ensure that the prices of its fixed telephony offerings (retail and wholesale) systematically provided sufficient economic space for new entrants, whose business was highly dependent on the decisions of the incumbent operator. It was only when these third-party players were sufficiently established in the market and the viability of their business was assured that ARCEP put an end to this asymmetrical regulation, leaving competition law alone to apply.
- 1.45 It seems to us that these considerations are likely to apply to the train ticket distribution market.

- 1.46 The existence of a market failure could result from a combination of the following factors:
- a. SNCF remains the pre-eminent player in the upstream passenger rail transport market and, as a result, is virtually monopolistic in relation to independent distributors.
 - b. SNCF also competes with distributors on the distribution market, where it also has a pre-eminent position and a very high profile.
 - c. The SNCF largely dictates the conditions under which independent distributors operate, since it sets their economic space by determining their commission levels, at the end of negotiations in which its counterparts have very limited, if any, leverage.
 - d. SNCF has no natural incentive to create an economic space for independent distributors for several reasons: because financing them represents a cost for SNCF, because they are its competitors in distribution, and also because these players are likely to encourage the development of competition in the upstream passenger transport market (see *below*).
- 1.47 Furthermore, it should be noted that the level of commission applied by SNCF is not tending to increase, quite the contrary. The basic commission rate was 3.0% in 2023. It will be 2.9% in 2024, and further reductions are already planned for the coming years: 2.8% in 2025 and 2.7% in 2027. These findings confirm that the problem of economic space available to independent distributors will not be resolved spontaneously.
- 1.48 In these circumstances, proactive intervention by the public authorities seems advisable, in order to guarantee the existence of an appropriate competition framework. This intervention could be undertaken by the competition authority, if it is in a position to take up the issue and act quickly. Alternatively, it could be entrusted to the sector regulator who, in parallel with the supervision of the Competition Authority, would then decide on the tools best suited to the situation - regulation of commission levels, accounting separation requirements, etc.

Independent distributors are essential to effective competition on several levels in the rail sector

- 1.49 It is all the more important for the authorities to carefully assess the level of commission offered by SNCF and the viability of the economic space offered to independent distributors as the latter are set to play a key role in the competition that is taking hold in the rail passenger transport sector.

Independent distributors are the only real source of competition in the train ticket distribution market

- 1.50 *Firstly*, independent distributors are essential to effective competition on the train ticket distribution market because they are and will remain the only real competitors to SNCF's internal distribution activity.
- 1.51 Most rail traffic in France is currently operated by the SNCF. SNCF train tickets are distributed by SNCF and by independent distributors. At this stage, independent distributors are the only source of competition to SNCF on the distribution market, given the low volume of tickets from other transport operators.
- 1.52 The situation should change with the development of competition in rail transport and the rise of operators competing with SNCF, who will *de facto* enter the distribution market, distributing their own tickets and possibly those of their competitors.

- 1.53 Nevertheless, it is unlikely that the integrated operators will really drive competition in distribution. In principle, they should each offer their own tickets in the main. Even if they agree to distribute the tickets of competing transport operators (which is not the case at the moment), they will have little incentive to systematically and objectively promote the offer of these competitors, as they would incur an opportunity cost by recommending a journey provided by a competitor on a route that they also operate.
- 1.54 Conversely, independent distributors have every interest in having the widest possible portfolio and offering all the travel options available. They are ^{indifferent}²⁸ between inter-operator and single-operator routes, and seek to offer the cheapest or fastest route in the end, to make their offer attractive and stand out from other distributors. The independents should therefore remain an essential source of competition in distribution.

Competition in train ticket distribution brings material benefits to consumers

- 1.55 Competition in distribution is likely to generate significant benefits for consumers, by improving the quality of services offered to users.
- 1.56 Faced with integrated operators, including SNCF, independent distributors have no choice but to constantly seek to improve the quality of their services if they want to grow. As a general rule, SNCF Connect's competitors cannot influence ticket prices, which are set by the passenger transport operator. In these conditions, their way of standing out and gaining market share is to offer a higher quality of service, attractive ancillary services and innovation.
- 1.57 These characteristics of the market imply that effective competition in distribution should generate material benefits for consumers: a better user experience, better algorithms for determining routes for connections and intermodal journeys, more responsive customer service, etc. The independent distributors operating in France have already made significant improvements in these areas. Independent distributors operating in France have already made significant improvements in these areas.

Independent distributors are also set to play a key role in the development of competition in the rail transport market.

- 1.58 *Secondly*, independent distributors also promote competition in the rail passenger transport market.
- 1.59 The opening up of the rail passenger transport market is now a fact and will continue to develop gradually, independently of developments in the ticket distribution market. Enabling independent distributors to compete on a long-term basis with integrated operators is essential to making the rail passenger transport market smoother and more competitive.
- 1.60 Independent distributors facilitate - and will continue to facilitate - inter-operator international transport, thanks in particular to the centralisation of available offers and the inclusion of subscriptions from different companies. In addition, liberalisation is likely to make the transport market more complex due to the fragmentation of services and differences in

²⁸ A potential counter-argument would be the introduction of bias in the independent distributors' offer, which would favour the most profitable options for them, depending on the different levels of commission between operators. This bias is mitigated by the incentive for independent distributors to offer a complete range of products in order to stand out from integrated distributors and attract the

management of regional services. The centralisation of offers by independent distributors will help to remedy this complexity, by reducing the difficulties and costs of research.

1.61 Integrated distributors have an interest in promoting the sale of their own routes and, in particular, SNCF has a natural incentive to curb competition in the rail passenger transport market. This creates barriers to the entry of new operators, who suffer from a lack of reputation in the face of the dominance of the historic operator, which has no incentive to encourage their development by distributing their offers. The activity of independent distributors makes it possible to limit these barriers and encourage the development of effective competition by offering the services of the various players without any incentive bias.

1.62 This is what the ART notes about independent distributors:

*"By acting as intermediaries between railway undertakings and consumers, these platforms have the advantage of offering a complete and objective comparison of existing offers on the market, while reducing transaction costs for consumers, who are no longer obliged to make numerous comparisons. In addition, these platforms help to reduce the lack of brand awareness that penalises new entrants. However, in order for these platforms to generate these efficiency gains, they need to have access to all the operators' offerings and their prices."*²⁹

The importance of independent distributors for the functioning of the rail transport market is recognised by the authorities

1.63 More generally, the authorities agree on the material pro-competitive effect of the activity of independent distributors on the upstream passenger rail transport market:

- a. The ART *"recommends that the opening up to competition of the market for domestic passenger rail transport services should be accompanied by fair access to information [...] by all players in the ticket distribution market, so that the efficiency gains generated benefit consumers"*.
- b. It notes that *"the dynamism of competition in transport is increased by allowing players in the digital economy [...] to compare service offers and distribute tickets. These platforms [...] have the advantage of offering a complete and objective comparison of existing offers on the market while reducing transaction costs for consumers, who are no longer obliged [...] to make numerous comparisons"*.
- c. In a report on competition in the land passenger transport sector, the French competition authority (Autorité de la Concurrence) noted that independent ticket distributors make it possible to create competition between carriers³⁰.
- d. The Bundeskartellamt noted in a decision issued against Deutsche Bahn for anti-competitive practices against independent train ticket distributors in Germany that the restrictions imposed by the incumbent operator on third-party distributors also affected

²⁹ ART - L'ouverture à la concurrence du transport ferroviaire de voyageurs en France, March 2018 (page 21).

³⁰ Paragraphs 998 of [the](#) Autorité de la concurrence's [opinion](#) of 29 November 2023 [on the land passenger transport sector](#).

competing rail passenger transport companies, especially small operators, who are dependent on third-party platforms to expand their market ^{presence}³¹.

Establishing and maintaining sufficient economic space for independent distributors is therefore desirable from a societal point of view.

The activities of independent distributors have a number of pro-competitive effects for consumers...

- 1.64 It follows from the above that the activity of independent distributors is decisive in enabling or facilitating competition in the downstream market for the distribution of train tickets and in the upstream market for rail passenger transport.
- 1.65 In this way, the activity of independent distributors brings or contributes to bringing many direct or indirect pro-competitive effects to these two markets in the rail sector.
- a. At the downstream level of ticket distribution, independent distributors provide easier and more comprehensive access to transport market offers, make it easier to buy and use inter-operator and intermodal journeys, improve the quality of distribution services and encourage greater innovation.
 - b. Upstream, by encouraging competition between carriers, independent distributors are helping to lower train prices, improve the quality of rail transport services, increase demand for rail transport services, and have beneficial effects on the environment by making trains more attractive.
- 1.66 Although these effects of the contribution of independent distributors are difficult to quantify, it is clear that they make this activity globally favourable for consumers and on a societal level. Increased competition, improved service quality, lower prices and higher demand should significantly boost consumer surplus.

... which are unlikely to be offset by any significant adverse effects

- 1.67 Determining whether or not an economic decision or scenario is socially desirable involves weighing up its positive and negative effects on society. To assess the merits of a decision, it is necessary to evaluate its impact on the social surplus, which corresponds to the cumulative surplus of companies and consumers. In this case, the question is whether - assuming that its current level is indeed insufficient - increasing the level of commission received by independent distributors in France to a level that allows their business to be viable is desirable for society.
- 1.68 As we have seen *above*, a number of effects favourable to consumers are conditional on the introduction of sufficient levels of commission. Conversely, we have not identified any significant negative economic effects associated with this decision.
- 1.69 We understand that some players would oppose an adjustment of commission levels on the grounds that the coexistence of several players in this market leads to a duplication of fixed costs.

³¹ Bundeskartellamt decision B9-144-19 of 26 June 2023 and Bundeskartellamt press release of 28 June 2023.

- 1.70 Since this is an issue that applies to any market, this argument is tantamount to challenging the virtues of competition and arguing that a monopoly would be preferable. The fact that, apart from very specific situations, competition is more favourable to consumers is a matter of consensus in economic literature. The issue of fixed costs is therefore not such as to cast doubt on or relativise the need to adjust commission levels for the self-employed so as to make their business viable and allow competition in this market.
- 1.71 This is all the more obvious as the fixed costs duplicated on the dematerialised ticket distribution market are very limited. According to our estimate, the fixed costs of an independent distributor entering the French market represent a very low value compared to the size of the market. By way of illustration, the fixed costs of an independent distributor represent the equivalent of less than 2 cents per ticket sold online, i.e. less than 0.1% of the value of the tickets. Assuming that this cost is reflected in the price level, which is by no means obvious, it is expected that each of the many benefits enabled by the activity of independent distributors will far outweigh this increment.
- 1.72 In the same vein, we understand that in some national markets, the incumbent operator believes that the commissions paid to distributors will increase its costs and *ultimately* lead to higher ticket prices for consumers.
- 1.73 This point of view is based on purely short-termist reasoning. In the short term, the incumbent operator, if it keeps its distribution structure unchanged, will be able to bear stable internal costs, which will be added to the commissions paid to the independents. Over this time horizon, it cannot be ruled out that the incumbent's average distribution costs will rise slightly. This is because in the short term, only purely variable distribution costs are avoided by the incumbent when one of its tickets is distributed by a third party.
- 1.74 But this is only a transitional effect. In the medium and long term, once competition has become established and market shares have stabilised, market players will have adapted their internal organisation and reviewed their distribution model. This is particularly true of the incumbent operator. If, as a result of the rise of third-party distributors, the incumbent now distributes only 50% of its tickets, whereas it used to distribute most of them, its organisation will be reviewed and its internal costs adjusted downwards.

The business of independent distributors should also benefit SNCF by increasing demand for the train and facilitating access to cross-border markets

- 1.75 Viable activity by independent distributors is also likely to have beneficial effects for SNCF. Given a given competitive structure on the rail passenger transport market, certain aspects of the activity of independent distributors in France and in other European countries should in principle also benefit SNCF by allowing :
- a. An increase in demand for cross-border journeys operated by the SNCF, thanks to the offer of independent distributors active in several countries;
 - b. A simplified entry and ramp-up for SNCF on the national markets of other neighbouring countries, where it would like to set up or expand.
- 1.76 However, SNCF would only need to capture a very small proportion of the additional demand generated by competition on the distribution market in France and by increased competition on the rail passenger transport market to offset the cost of increasing the remuneration of independent distributors.

- 1.77 By way of illustration, a hypothetical doubling of the current commission amounts paid to Trainline annually would be more than offset by a 0.2% increase in demand for SNCF transport services. However, the increase in demand generated by the development of independent distributors is expected to be materially higher.

It is therefore essential, in the interests of consumer welfare, that the authorities look into the level of commission paid to independent distributors.

- 1.78 It follows from these various considerations that independent distributors have a crucial role to play in the proper functioning of the rail ticket distribution and rail transport markets. Their services have a number of beneficial effects for the consumer and are essential to the development of competition in passenger transport.
- 1.79 It is therefore essential for the public authorities to quickly grasp the issue of the economic space available to them at this stage. For the moment, this economic space is determined almost unilaterally by the incumbent operator, whose short-term incentives do not coincide with those of consumers in society as a whole.

Organisation of the report

- 1.80 The rest of this report is organised as follows:
- a. **Section 2** explains that an increase in the level of commission is necessary to ensure the viability of the independent distributor's business.
 - b. **Section 3** reiterates that independent distributors are essential for effective competition in the rail passenger transport sector.
 - c. **Section 4** concludes that fair remuneration for independent distributors is desirable from a societal point of view.

2 An increase in commission levels may be necessary to ensure the viability of independent distributors' businesses

Introduction

- 2.1 In this section we show that, since their entry into the distribution of train tickets in France, the new players in this market have encountered difficulties. Their operating margins are low, if not negative, and the viability of their business does not seem assured.
- 2.2 Because of the structure of the rail passenger transport market in France, in which SNCF enjoys a pre-eminent position, the income of these new distributors depends almost exclusively on the commission paid to them by SNCF for distribution. However, the level of this commission appears to be particularly low, especially compared with those charged in other countries or other markets. It is up to 10 times lower than the commission received by car or hotel reservation platforms.
- 2.3 What's more, in practice, the level of SNCF commission has been divided by 2.5 in 15 years and looks set to continue falling in the years to come. The SNCF seems to have complete freedom to set the level of commission it wants, in the absence of any real negotiating power on the part of distributors. In this context, it seems important that the public authorities take up this issue and in particular the potential existence of a price squeeze.

Independent distributors are finding it difficult to establish themselves in the rail ticket distribution market in France

New entrants to the train ticket distribution market are currently making limited or even negative profits

Public sources suggest that independent distributors are experiencing economic difficulties

- 2.4 New entrants to the rail ticket distribution market are difficult to make profitable, as the financial performance of some market players shows.
- 2.5 By way of illustration, Table 3 below reports the economic performance of Trainline S.A.S and Omio Voyages, the French subsidiaries of Trainline and Omio, based on publicly available information.

Table 3: Public financial results of Trainline S.A.S and Omio Voyages - 2019-2022

Entity	Indicator	2019	2020	2021	2022
Trainline SAS	Operating profit (k€)	-4 780	-4 860	-3 940	-1 820
	Net profit (k€)	-5 160	-3 430	-3 310	-1 800
	Operating margin	-21,9%	-13,5%	-32,1%	-8,7%
	Net margin	-23,6%	-9,3%	-25,4%	-7,8%
Omio Voyages	Operating profit (k€)	39	n/a	260	504
	Net profit (k€)	28	n/a	-13	38
	Operating margin	4,8%	n/a	4,8%	4,8%
	Net margin	3,4%	n/a	-2,5%	3,6%

Note: Operating profit for Omio's 2022 parent company financial statements has been adjusted to reflect the sum of operating expenses.

Kombo's financial results are not publicly available.

Source: Compass Lexecon based on public data available on papers.fr.

- 2.6 This table shows that the French subsidiary of Trainline, which is mainly active in the distribution of train tickets, has made losses every year from 2019 to 2022.
- 2.7 If the indicators improve over time, Trainline S.A.S's net margin will be negative and equal to -7.8% in 2022. It should be noted that Trainline's operating margin does not take into account common costs (related to teams, systems and overheads), depreciation and amortisation, financing costs or equity costs, as these costs are managed at Group level. Taking these costs into account would lead to a significantly lower operating margin.
- 2.8 With regard to Omio Voyages, public data suggest that the operator made a profit in 2019 and 2022, where the net margin was 3.4% and 3.6% respectively, but not in 2021, where it was -2.5%³². It should be remembered, however, that Omio allows travellers to book tickets combining train, bus, plane and ferry travel, as well as airport transfers. The positive results presented below are driven by these other activities. The results relating to the distribution of train tickets in France are in fact negative, as presented *below*.
- 2.9 The negative results of the French subsidiaries of Trainline from 2019 to 2022, whose business is essentially the distribution of train tickets, and of Omio in 2021, which is active on a broader scope, suggest that independent distributors are finding it difficult to establish themselves in the market for the distribution of train tickets in France.
- 2.10 While the interpretation of this publicly available data is not entirely clear, as we discuss below, an analysis of the data communicated by ADN Mobilités members confirms this finding unambiguously.

Analysis of internal data from ADN Mobilités members confirms the economic difficulties associated with the distribution of train tickets

- 2.11 In order to examine the profitability of independent distributors in more detail, we collected internal results data from Trainline, Kombo and Omio. We have

³² It should also be noted that Omio has chosen not to distribute Ouigo tickets as a result of the low commission paid by SNCF for these tickets, as discussed *below*.

Based on this data, we analysed whether these players were in a position to make a profit in the specific area of train ticket distribution in France. Our analysis of this data confirms that, within this scope, the economic viability of these players is not guaranteed.

The Trainline case

2.12 The figure below illustrates the evolution of Trainline's margin in France from 2017 to 2023, based on the company's internal data for activity in France.

[REDACTED]

2.13 This figure shows [REDACTED] during the first few years of Trainline's operation. This is not unusual when launching a new business, as new entrants incur significant costs, particularly in marketing, to launch their business. However, after eight years of operation in France, Trainline [REDACTED].

2.14 In addition, it should be noted that common costs (related to teams, systems and overheads), depreciation and amortisation, financing costs or equity costs, are managed at Group level only and are not allocated between the parent company accounts and the international accounts, including France. These costs are therefore not taken into account in the margin calculation presented above. This difference in scope could also explain the discrepancy between the figures presented in the figure below and Table 3.

2.15 Thus, even if Trainline's operating margin were slightly positive, this would not be enough to offset all the costs generated by the business in France. This exclusion may partly explain the differences observed between the public data and the data to which we had access.

The case of Omio

2.16 Table 4 below sets out Omio's operating margin for its train ticket distribution business in France in 2022 and 2023, based on Omio's internal data for its business in France.

Table 4: Omio's operating margin on rail business in France in 2022 and 2023

	2022	2023
EBITDA (k€)	[REDACTED]	[REDACTED]
Operating margin	[REDACTED]	[REDACTED]

Source: Compass Lexecon based on Omio financial data.

2.17 Table 4 shows that Omio's operating margin for its train ticket distribution business in France in 2022 and 2023 [REDACTED].

2.18 In addition, Omio has chosen not to distribute Ouigo tickets in view of the level of commission paid for these tickets. It should be noted that distributing Ouigo journeys would have the effect of worsening Omio's results on rail in France.

The case of Kombo

2.19 The figure below shows the evolution of Kombo's operating income in France, by year from 2017 to 2023, based on Kombo's internal data for its business in France.

[REDACTED]

- 2.20 Kombo's operating margin includes all modes of transport, although rail accounts for the majority of Kombo's revenues. The figure above shows that Kombo has observed [REDACTED].
- 2.21 Like Trainline, Kombo has achieved [REDACTED].
- 2.22 Thus, despite several years of operation on the train ticket distribution market in France³³, and despite the international presence of some of these players³⁴, Trainline, Kombo and Omio are experiencing real difficulties in establishing a viable presence on the train ticket distribution market in France.
- 2.23 In addition, it should be noted that the members of ADN Mobilités are the main independent distributors in France. The observations made in this section are all the more true for distributors with a lower sales volume, as they will face comparable fixed marketing costs, while achieving a much lower turnover, the latter being dictated by the level of commission on the sale of train tickets.

The levels of operating margin commonly observed in the sector confirm the relatively low profitability of independent distributors.

- 2.24 Public data from other companies operating in the online travel organisation sector also confirms that the operating margin rates observed in the accounting data of ADN Mobilités members are not at the level of market standards.
- 2.25 For the year 2023, Booking Holding, which owns Booking.com in particular, reported an operating margin of over 33%³⁵ in its company accounts. Other smaller companies such as Edreams³⁶ and Expedia³⁷ also report operating margins of between 15% and 20%.
- 2.26 In fact, the operating margin levels observed at Trainline, Kombo and Omio do not seem to correspond to normal and viable profitability levels for a company operating in the online travel organisation sector.

³³ Trainline (formerly Thetrainline.com) has been selling train tickets in the UK since 1999. Trainline entered the French market in 2016 with the acquisition of Captain Train (formerly Capitaine Train), which had been active in France since 2012.

Kombo (formerly SoBus) started out as a comparator in 2016. In 2017, the platform evolved towards a comparison and booking model. Initially dedicated to bus journeys, the platform added train travel in 2019 and air travel in 2021.

Omio (formerly GoEuro) is a German company founded in 2013 that has been distributing train tickets in France since 2016.

³⁴ Omio is one of Europe's leading travel platforms, distributing tickets for train, bus, plane, ferry and airport connections in more than 37 countries, including the United States, Canada, Australia and elsewhere. Omio also operates the Rome2Rio and Busradar brands.

Trainline is the UK's leading independent distributor of rail and coach travel, and one of Europe's leading players. Trainline aggregates tickets from over 270 operators in 40 countries.

³⁵ <https://ir.bookingholdings.com/financials/annual-reports/default.aspx>

³⁶ <https://investors.edreamsodigeo.com/English/financials/quarterly-results/default.aspx>

³⁷ <https://www.expediagroup.com/investors/news-and-events/financial-releases/news/news-details/2024/Expedia-Group-Reports-Fourth-Quarter-and-Full-Year-2023-Results/default.aspx>

The economic space for new entrants to distribution is mainly dictated by the level of commission granted by SNCF

- 2.27 Distributors' remuneration is heavily dependent on the commission granted by SNCF. For each ticket sold, approved agencies, including independent distributors, are remunerated through a commission paid by the transport operator, generally proportional to the price of the ticket. This commission is the main source of income for independent distributors.
- 2.28 Indeed, the ability of independent distributors to invoice their services directly to users is limited by the competitive pressure of integrated distributors. By charging a margin on the distribution of train tickets, independent distributors incur a loss of competitiveness compared with SNCF Connect (and other integrated distributors in the case of Trenitalia or Renfe tickets, for example), which do not charge for the distribution of tickets, the value of which is included in the retail price. Independent distributors' margins on SNCF ticket sales are therefore limited by the commission paid by the historic operator.
- 2.29 In addition, the ability of independent distributors to generate income from ancillary services is limited.
- 2.30 Trainline is thus able to generate income related to its distribution activity by :
- a. Offering its users their own travel insurance,
 - b. Offering the possibility of booking hotels from its platform,
 - c. Monetising its platform through partnerships and advertising,
 - d. Charges for currency conversion.

However, these revenues represent only a small proportion of Trainline's total revenues. Taken together, they represent only [x] of Trainline's revenues in 2023 for its activities in France.

- 2.31 Consequently, the commissions paid by operators to independent distributors play an essential role in the revenue linked to the distribution of train tickets. In France, given SNCF's strong position on the upstream passenger rail transport market and its monopsony position vis-à-vis independent distributors for the distribution of its train tickets, the commissions paid by SNCF are essential for independent distributors. In 2023, these commissions represented [x] of Trainline's revenue in France³⁸.

It is all the more important to create sufficient economic space as the new entrants suffer from a lack of brand awareness compared with SNCF.

- 2.32 The commissions paid by SNCF to independent distributors are therefore essential to their economic viability, and this is all the more true considering the particular situation of the train ticket distribution market in France. In this respect, it should be remembered that the train ticket distribution market is a recently liberalised market in which the incumbent operator (SNCF) retains a high market share. As the incumbent operator and one of the most recognisable brands in France, the SNCF

³⁸ Commissions and ancillary income do not add up exactly to 100% because of promotional codes, which constitute negative income.

benefits from advantages that cannot be replicated by its competitors, creating barriers to market entry for the latter.

- 2.33 SNCF is the main player in the passenger rail transport market, and hence in the related market for the distribution of train tickets. SNCF markets its tickets through internal channels, including its online sales platform SNCF Connect, but also through approved travel agencies. As a state-owned company and former monopoly, it has a solid foothold and controls the majority of rail services in the country. This dominant position makes it difficult for new entrants to win market share.
- 2.34 Compared with the integrated incumbent operator, independent distributors suffer from a lack of brand awareness. Closing this gap requires significant investment in marketing.
- 2.35 *Firstly*, SNCF Connect has the advantage of age. The vast majority of travellers in France have never bought their tickets from another distributor. The SNCF also continues to consolidate the brand image of its distribution platform through marketing campaigns, particularly when it changed its name from "voyages-sncf.com" to "OUI.sncf" in ²⁰¹⁷³⁹. This advantage of seniority is confirmed by the fact that travellers aged between 18 and 24 are the most frequent users of alternative platforms to SNCF ^{Connect}⁴¹.
- 2.36 *Secondly*, SNCF Connect also benefits from the SNCF Group's global brand image. There are synergies between the different branches of the group, often identifiable by the "SNCF" in their names. Advertising campaigns for one of the branches reinforce the overall brand image, and thus the image of each of the branches. The incumbent operator also has its own brand on almost every train and in every station. In a survey carried out by IFOP for Eight Advisory in ²⁰¹⁹⁴⁰, SNCF was ranked as the ^{22nd} most admired brand by the French.
- 2.37 These two advantages mean that French consumers can develop habits and preferences for buying train tickets directly from SNCF. Changing consumer behaviour is a long-term effort that requires significant marketing efforts. These high marketing costs can be a barrier to new entrants.
- 2.38 Furthermore, in addition to the fact that independent distributors are less well known than the SNCF brand, it appears that a substantial proportion of passengers have imperfect knowledge of the opening up of rail services to competition. By 2023, even though 80% of the French have heard of the opening up to competition, only half the population (53%) knows that competition is effective ^{e41}.
- 2.39 Consequently, the lack of awareness of the existence of effective competition among passengers, the advantage of the position of incumbent operator and the strong anchoring of the SNCF brand constitute major barriers to entry, which new distributors must overcome by conceding significant marketing costs, firstly to inform consumers of the

³⁹ <https://www.thinkwithgoogle.com/intl/fr-fr/strategies-marketing/video/de-voyages-sncfcom-a-ouisncf-youtube- au-coeur-dun-rebranding-reussi/>

⁴⁰ <https://www.campusfrance.org/fr/quelles-sont-les-entreprises-les-plus-admirees-des-french#:~:text=The%20podium%20g%C3%A9n%C3%A9ral,car%20makers%20Peugeot%20and%20Renault>

⁴¹ Opinion Way poll for Trainline, quoted by lerail.com: <https://lerail.com/news/69754-que-pensent-les-fran%C3%A7ais-de-la-concurrence-dans-le-rail>

the possibility of using services that are different from those of SNCF, and to compensate for the fact that the incumbent operator is lagging behind in terms of brand awareness. It therefore seems essential for alternative distributors to hope for sufficient income to support these substantial costs.

The level of commission paid by SNCF is relatively low and falling

- 2.40 The above findings suggest that the current level of commission is insufficient to guarantee the economic viability of independent distributors. In addition, the level of commission granted by SNCF appears particularly low compared to similar markets and is set to fall in the coming years.

Current commission levels may not be sufficient to ensure the economic viability of independent distributors

It appears that commission is the main source of income for distributors and that their economic viability is not guaranteed.

- 2.41 A comparison of the distributors' needs to develop on the market and the level of commission granted by SNCF suggests that this commission is insufficient. Indeed, as explained in paragraphs 2.27-2.31, the commission paid by transport operators, in this case SNCF, is the main source of income for independent distributors, who are not free to generate significant income in any other way. However, this income is insufficient for the economic viability of independent distributors, given that they make negative profits or operate below the acceptable break-even point.
- 2.42 Although the actual level of the average commission depended on the volume of train tickets distributed and differentiated commission rates according to the type of train or ^{customer}⁴², the total commission paid by SNCF to ADN Mobilités members was between [x] and [x] of the value of SNCF tickets distributed.
- 2.43 However, the distribution of SNCF train tickets by third parties requires access to the SNCF's PAO, which gives rise to costs representing, for a new ^{entrant}²⁰, more than 1% of the sale price per ticket. It is therefore necessary to deduct these costs from the commission rate in order to assess the effective remuneration of independent distributors for the sale of SNCF tickets.
- 2.44 This situation suggests either that all of SNCF Connect's main competitors are inefficient, or that the level of commission granted by SNCF is too low to guarantee profitable economic activity on the ticket distribution market. This second hypothesis is the most likely.

The hypothesis of inefficient new entrants seems unlikely, unlike the hypothesis of a commission level that is too low.

- 2.45 In fact, the argument that new entrants are not very effective does not seem very credible.
- 2.46 *Firstly*, a new entrant to a recently liberalised market is expected to offer efficiencies over the incumbent operator if it wishes to offer

⁴² The commission rate applicable to sales of SNCF, Ouigo and Eurostar tickets differs, as do ticket sales to companies, known as "Contrat Grand Compte SNCF".

The business plan of a new entrant is drawn up with this in mind. In this respect, it should be noted that the online distribution of train tickets is not a particularly capital-intensive business, so a new entrant should be able to compete quickly with the incumbent operator (unlike more capital-intensive industries such as transport).

- 2.47 *Secondly*, the three distributors are players in the digital world, and what is more These are "pure players", i.e. companies that operate solely on the Internet. These companies generally operate in an innovative way, with the underlying aim of revolutionising the sector in which they operate, with the potential for strong economic growth. With this in mind, these companies adopt methods based on short development cycles in order to rapidly achieve a viable business plan. While not all of these companies are destined to become established businesses, it would appear that they are the most likely to focus their operating methods on maximising efficiency.
- 2.48 In other words, the fact that innovative companies with 4 to 15 times fewer employees than the incumbent distributor are struggling to operate profitably, while having to respond to strong growth demands from their shareholders, suggests that the economic space available to them is not sufficient.
- 2.49 Consequently, the most likely reason for the poor economic health of the new entrants is the low level of commission granted by SNCF.

Commissions paid by SNCF are low compared with levels in comparable markets for other modes of transport.

- 2.50 In order to assess the relevance of the level of commissions granted by SNCF, it would be useful to make a comparison with similar markets.
- 2.51 To this end, we have compared the level of commission charged in this case with the levels of commission observed in other online distribution markets. This exercise highlights the fact that higher commissions are generally applied in these comparable markets.
- 2.52 For example, :
- a. The commission charged by Rentalcars is 25% of the car hire ^{price}⁴³.
 - b. Booking.com charges between 10% and ^{20%}⁴⁴ for hotel reservations, while Abritel charges ^{13%}⁴⁵.
 - c. Ticketmaster charges a 10% commission on the price of concert ^{tickets}⁴⁶.
 - d. GetYourGuide charges a commission of 20-30% on the price of the ^{activities}⁴⁷.

⁴³ <https://rcmarketplace.zendesk.com/hc/fr/articles/360005760753-Quels-types-d-entreprises-rejoignent-Marketplace>

⁴⁴ <https://your.rentals/fr/blog/les-frais-de-booking-com-a-combien-selevent-ils-et-comment-sont-ils-calculés/>

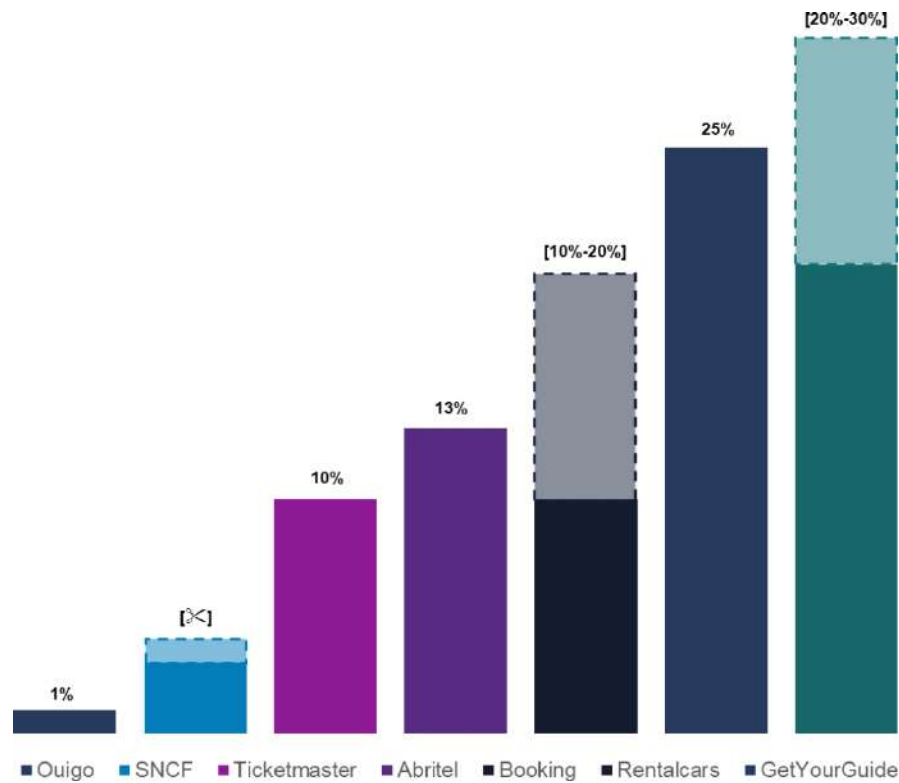
⁴⁵ <https://aide.abritel.fr/articles/Comment-sont-calculés-les-frais-de-reservation>

⁴⁶ <https://medium.com/@ticketexchangeinfo/how-much-does-ticketmaster-charge-to-sell-tickets-and-exchange-tickets-bcdfc702938b>

⁴⁷ <https://www.getyourguide.supply/join/how-much-does-getyourguide-charge>

2.53 Figure 3 below provides an illustration of the comparison of the level of commission paid by SNCF with the commissions charged in the comparable markets described above.

Figure 3: Comparison of SNCF's commission levels with other distribution markets



Source: Compass Lexecon based on public data and ADN Mobilités.
Note: The "SNCF" bar represents an indicative range for the average commissions received by ADN Mobilités members on French customers, including additional remuneration.

2.54 Figure 3 shows that the commission paid by SNCF (excluding Ouigo) is two to ten times lower than the commissions charged on comparable markets⁴⁸.

2.55 Although these markets are not directly comparable to the online train ticket distribution market, they do have similarities that make them relevant to be brought together. The players mentioned above are "pure players" (i.e. they are active solely on the Internet) acting solely as intermediaries in the resale of tickets or services. Their costs are therefore expected to be comparable to those of online train ticket distributors.

2.56 There is therefore no apparent reason to justify such a low commission for train ticket distribution. On the contrary, the complexity of the train ticket distribution business could justify higher costs compared to other sectors.

⁴⁸ The comparison is based on commission rates as a percentage of the sale price of the service. It should be noted that these prices in the various markets are of the same order of magnitude (between a few tens and a hundred euros for the majority of sales). Thus the comparison in percentage can be extended to a comparison in revenue per sale showing the difference in remuneration between train ticket distributors and resellers operating in comparable markets, yet with similar costs.

- 2.57 Some features are specific to train ticket reservations:
- a. management of the various discount cards and subscriptions,
 - b. the choice of seats on the train and couchettes on night trains,
 - c. Ouigo options,
 - d. managing return journeys, or even
 - e. cancellations and refunds.
- 2.58 These different functions represent additional integration costs for train ticket vending machines.
- 2.59 The distribution of online train tickets is in fact a complex activity, which cannot be summed up by the simple development of a *front-end* ^{application}⁴⁹ that simply acts as a relay between the carrier's database and the passenger.
- 2.60 Train ticket vending machines deal with complex and highly personalised products (through season tickets, seat selection, etc.) whose prices vary over time. Distributors therefore have to develop numerous functionalities to reflect these characteristics, and carry out continuous integration of new functionalities (for example, new season tickets created by the carriers).

The economic space for new entrants is tending to shrink as SNCF commission levels follow a downward trend

SNCF commissions have been divided by 2.5 in 15 years

- 2.61 We saw in the previous section that the level of commission granted by SNCF is 2 to 10 times lower than the commissions paid in comparable markets and does not seem sufficient to ensure the viability of the players dependent on this commission.
- 2.62 However, the economic space available to these independent distributors does not seem to be improving spontaneously in the absence of intervention by the public authorities, because the levels of commission granted by SNCF are not tending to increase, far from it.
- 2.63 Under the agreement signed between SNCF and the Syndicat National des Agences de Voyages (SNAV, which became EDV in 2016), the base rate of commission paid by SNCF is negotiated for three years. The basic rate of commission has fallen from 7.8% (10% for international journeys) until 2006, to 3% in ²⁰²⁰⁵⁰.
- 2.64 What's more, the commission rates granted by SNCF for the distribution of Ouigo tickets are even lower, the net rates being zero or even negative when the associated DTP costs are taken into account.
- 2.65 We understand that SNCF initially did not want to make Ouigo tickets available for sale by independent distributors, before concluding bilateral agreements.

⁴⁹ The front-end is the part of a site or application that a user interacts with.

⁵⁰ In addition to this basic rate, distributors may receive additional remuneration, depending on the type of ticket sold (for example, an additional rate for first class tickets). However, these remunerations are relatively limited and are not likely to change the downward trend in commissions granted by SNCF.

with distributors. This commission amounted to [3%] for Kombo, for example. SNCF finally negotiated an agreement with the distributors, similar to those negotiated for other SNCF services⁵¹. We understand that this agreement has been in force since July 2024. As a result, the level of commission for the distribution of Ouigo tickets is even lower than for other SNCF tickets, at 1%⁵².

- 2.66 At the same time, the freelancers who distribute Ouigo tickets have to pay a DTP fee of a few tens of centimes, which can represent more than 1% of the value of a ticket²⁰. The rate of commission net of DTP charges is therefore close to zero or even negative. This is despite the fact that the distribution of Ouigo tickets implies additional functionalities for the distributors, for example to reserve additional luggage or a seat with a grip (these functionalities do not concern other SNCF trains), and therefore additional costs.
- 2.67 As a result, independent ticket distributors necessarily make a loss on the distribution of Ouigo tickets. The incentive for independents to distribute Ouigo tickets is therefore low, so Omio has chosen not to offer these tickets for the time being. This is detrimental for end customers, who cannot always book Ouigo tickets with the application they want.
- 2.68 In addition, Ouigo's market share in France is increasing, with the offer representing 21%⁵³ of the market in 2022, whereas SNCF's objective is to conquer 30% of the market with Ouigo⁵⁴. As a result, the average commission paid by SNCF would fall, even if rates were not revised, simply because of the composition effect.

Fees will continue to fall over the coming years

- 2.69 It should be noted that the historic fall in commission levels could be partly linked to a structural reduction in distributor costs made possible by dematerialisation.
- 2.70 While in the early 2000s virtually all distributors - at that time travel agencies - operated via physical branches, the market has gradually shifted towards online ticket distribution. Dematerialisation could therefore help to explain the fall in commission levels since 2006. However, it cannot explain the more recent fall, or the falls forecast by SNCF for the coming years.
- 2.71 The downward trend in commission levels seems set to continue. At the time of the last agreement, SNCF announced its intention to reduce the basic amount of commission once again. In an interview published on 10 May 2022, Olivier Pinna, SNCF's Business Market Director, stated⁵⁵ :

"Every three years there is an agreement that determines the commissions paid to travel agents on the sale of train tickets. A few months ago, we reopened these negotiations, which run until the end of 2022. At present, this commission is 3%. We have made a proposal."

⁵¹ https://www.tourmag.com/EDV-Quelle-est-la-nouvelle-convention-de-distribution-signee-avec-la-SNCF_a117145.html

⁵² We understand that prior to the recent agreement, remuneration was negotiated bilaterally and could be less than 1%.

⁵³ ART - Rail Review 2022, page 23.

⁵⁴ <https://www.groupe-sncf.com/fr/groupe/portrait-entreprise/groupe-societes/sncf-voyageurs/ouigo-developpement>

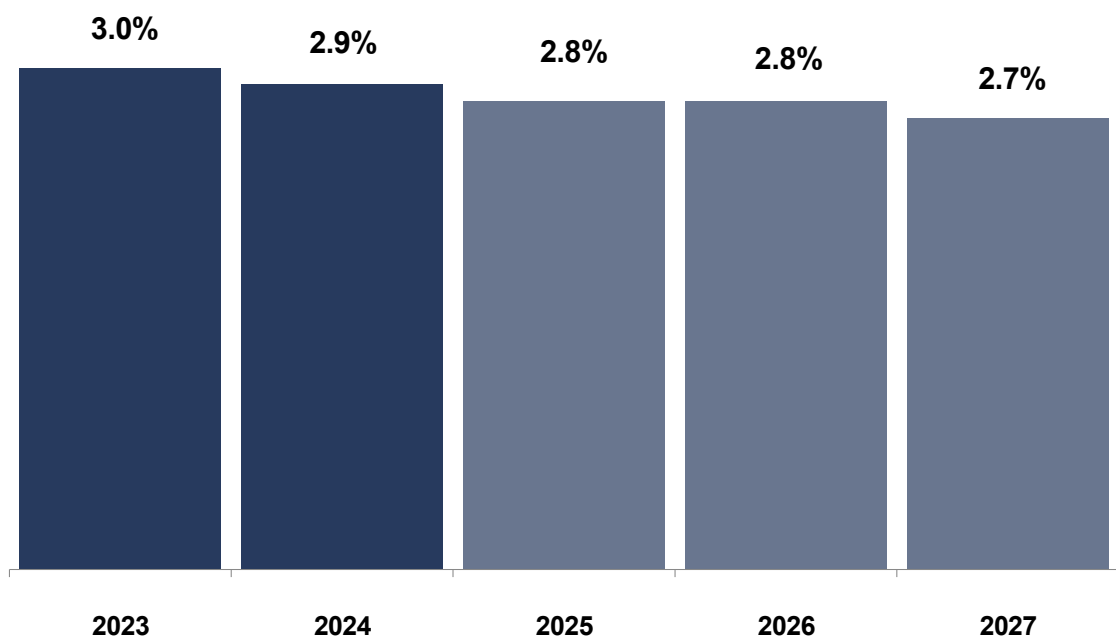
⁵⁵ <https://www.deplacementspros.com/transport/terrestre/sncf-olivier-pinna-pour-nous-la-rse-compensera-la-visio>

It's less, but I consider this reduction to be almost symbolic. We're taking into account the difficult period that the agencies are going through, but we have to admit that the SNCF has also been hard hit by the health crisis.

2.72 This agreement led to a reduction in the commission rate to 2.9% initially, then to 2.7% by 2028⁵⁶ - several years after the end of the health crisis, which seems to have been one of the reasons put forward by SNCF to justify the reduction.

2.73 This change in the base rate is shown in Figure 4 below.

Figure 4: Future development of the base rate negotiated between SNCF and SNAV



Source: Compass Lexecon based on public data.

2.74 We therefore note that, on the one hand, all the independent distributors operating in France are experiencing serious financial difficulties, even though these companies are adopting the model that seems most favourable to efficient operation, and have clear incentives to operate efficiently, and on the other hand that the commission granted by SNCF appears to be 2 to 10 times lower than the commissions paid on comparable markets and seems set to fall in the near future.

2.75 Consequently, and considering that SNCF enjoys a pre-eminent position both on the passenger transport market and on the ticket distribution market, and that it has no obvious economic incentive to implement a sufficient level of commission, the economic viability of independent distributors seems threatened in the absence of intervention by the public authorities.

An increase in commission levels may be necessary to ensure the viability of independent distributors' businesses
[avec-la- SNCF_a117145.html](#)

These observations suggest that it would be appropriate for the public authorities to take up this issue

- 2.76 The previous section establishes that the level of commission paid by SNCF is particularly low, especially in comparison with similar markets. However, it appears that SNCF has complete latitude to set the commission it wishes, and that it has no natural incentive to leave sufficient economic space to encourage the development of independent distributors. It is possible that this practice implies the existence of a price squeeze, which would *de facto* require intervention by the public authorities.

SNCF currently decides on the level of commission it pays to independent distributors.

- 2.77 Currently, the commission paid to independent distributors is set during an agreement with the travel trade (EDV) held every 3 years. This principle is recalled in the quotation in paragraph 2.71. In theory, this agreement gives rise to negotiations between SNCF and the EDVs to reach an agreement on changes in the level of commission.
- 2.78 However, the agreement resulting from the latest agreement, of 23 January 2023, and the reaction of travel companies leave little doubt as to the balance of power existing between SNCF and distributors during these negotiations. The distributors' remuneration was lowered to 2.9% at the end of the 2023 agreement, and is set to fall gradually to 2.7% in 2028.
- 2.79 As part of these negotiations, the distributors stated that *they were "under the yoke of the carrier"*, pointing out that *"SNCF used a balance of power, not necessarily a win-win situation"*⁵⁷.
- 2.80 This is not surprising: SNCF has a strong position in the rail passenger transport market, where its services are essential for both travel agencies and pure player ticket distributors such as Trainline, Kombo and Omio. Conversely, these players have little or no bargaining power, given the low volume they represent compared with tickets sold directly by SNCF.

SNCF has no natural incentive to provide sufficient economic space for independent distributors

- 2.81 From a strictly economic point of view, SNCF has no obvious interest in setting a commission that would ensure a viable economic space for independent distributors.
- 2.82 Firstly, the commission paid to these distributors is a net cost for SNCF, since in the absence of these distributors, SNCF could sell the tickets distributed by the independents through its integrated distributor, SNCF Connect, without any variation in its short-term costs. Thus, by allowing alternative distributors to sell its tickets, SNCF agrees to a net loss equal to the negotiated commission.
- 2.83 Secondly, through its integrated distributor SNCF Connect, the SNCF is active on the ticket distribution market, and the commissions granted by the SNCF constitute the main income - and essential for survival - of its direct competitors on the ticket distribution market.

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https://www.tourmag.com/EDV-Quelle-est-la-nouvelle-convention-de-distribution-signe-avec-la-SNCF_a117145.html

- 2.84 Thirdly, as explained *below*, independent distributors also intensify competition on the passenger transport market. In fact, by allowing the development of new entrants on the distribution market, SNCF would encourage the development of competitors to its passenger transport activities.
- 2.85 Consequently, SNCF has several incentives to limit the commissions paid to distributors. As discussed in the rest of this section, this implies the risk that the economic space left to distributors is insufficient and that they are caught in a "pricing squeeze".
- 2.86 It should be noted, however, that SNCF remains bound by competition law, and the possibility of being subject to proceedings by the competition authority in the event of practices that could be described as anti-competitive.
- 2.87 The competition authority obtained commitments from SNCF following a complaint lodged by AS Voyages concerning practices implemented by SNCF in the train ticket distribution sector.⁵⁸ SNCF undertook to apply the same remuneration conditions to SNCF Connect as to other distributors.
- 2.88 However, in the absence of an accounting separation between SNCF Voyageurs and SNCF Connect, this commitment is not very binding in practice, as SNCF can cross-subsidise its activities. In the case in point, SNCF can subsidise its distribution business with its passenger transport business.

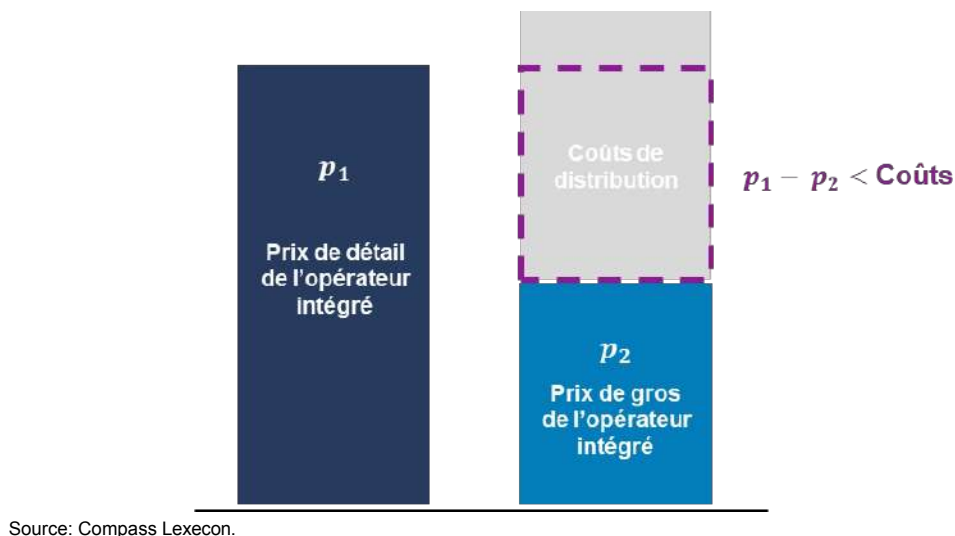
It is possible that the current level of commission will lead to a price squeeze

Reminder of the definition of price squeeze

- 2.89 A price squeeze can occur when a vertically integrated operator has a dominant position on the upstream market and competes downstream with non-integrated companies that are its upstream customers.
- 2.90 In this context, the economic space available to competitors depends on the tariffs applied by the integrated operator:
- a. Wholesale tariffs, implemented on the upstream market for the input (p_1);
 - b. Retail tariffs, offered on the downstream market (p).
- 2.91 In order to propose a sufficiently attractive offer, downstream competitors are constrained by the integrated operator's retail price p_2 . For each unit of product or service sold, they must pay the wholesale price p_1 to the integrated operator. The economic space available to them is therefore the margin between the retail price and the wholesale price: $p_2 - p_1$.
- 2.92 A "margin squeeze" occurs when this economic space is not sufficient to cover the specific costs of retail activity incurred by a sufficiently efficient company. A margin squeeze therefore implies that the integrated operator's competitors are unable to compete with it downstream without incurring losses, as illustrated in Figure 5 below.

⁵⁸ Decision 14-D-11.

Figure 5: Illustration of the price squeeze principle



2.93 Price squeeze problems often arise in sectors that have recently been opened up to competition, where the incumbent operator is required to supply certain intermediate goods that are essential to competitors on the downstream market. These practices have been observed in particular in the telecommunications ^{market59}, but also in the rail ^{sector60}.

2.94 It should be noted that whether or not a price squeeze exists may depend on the costs considered for the activity on the downstream market - because not all players incur the same levels of costs. In competition law, it is generally considered that a price squeeze test should be carried out on the basis of the integrated operator's costs, in order to leave an economic space for competitors who are at least as efficient.

The case in point is conducive to a price squeeze

2.95 The case in point is a typical situation in which the fares of the incumbent operator, SNCF, could lead to a margin squeeze for its competitors on the downstream market for the distribution of train tickets.

2.96 In SNCF ticket distribution, the economic space of independent distributors corresponds to the commission paid by the incumbent ^{operator61}.

2.97 There is no wholesale price as such on this market, since SNCF purchases an intermediation service from the independent distributor, which it remunerates via commission. However, it is possible to consider that the wholesale price corresponds to the retail price set by SNCF less the amount of commission paid to the distributor by SNCF. A margin squeeze thus occurs if the difference between the retail price and the effective wholesale price (the difference corresponding to the commission) is insufficient to cover the distribution costs.

⁵⁹ Autorité de la Concurrence - Decision 05-D-59 of 7 November 2005 concerning practices implemented by France Télécom in the broadband Internet sector

⁶⁰ European Commission, AT.39678/AT.39731 Deutsche Bahn I/II 18 December 2013.

⁶¹ Given the low value of complementary services for independent distributors, as noted *above*.

- 2.98 However, as we saw above, SNCF has a twofold incentive to limit the level of commission it pays to distributors - because commission is a cost for SNCF, and commission is the main source of income for its downstream competitors.

[<]

An illustrative calculation based on SNCF public data lends credence to the hypothesis of a pricing squeeze

- 2.99 It is not possible to conduct a genuine price squeeze test on the basis of the public data available concerning SNCF. Carrying out a price squeeze test requires a precise examination of costs in order to retain the incremental costs that are specific to the downstream activity being ^{examined}⁶² - in this case the distribution of online train tickets.
- 2.100 However, based on the information published by SNCF, it is possible to examine whether it is a *priori* whether or not SNCF's level of commission is causing a price squeeze.
- 2.101 To do this, we compared the order of magnitude of the SNCF's distribution costs with the income that the SNCF's integrated distributor (SNCF Connect) would earn if it were paid a commission of around 3% like independent distributors.
- 2.102 As far as SNCF is concerned, SNCF Connect's financial statements for 2022 show 216 ^{employees}⁶³ and operating expenses of 186 million euros.
- 2.103 These costs can be compared to the income that SNCF Connect would receive if its remuneration were dictated by the commission paid by SNCF. We estimate these revenues by multiplying the sum of the commissions paid by SNCF to the members of ADN Mobilités over the year 2023 by the ratio of SNCF's market share and the combined market share of the members of ADN Mobilités in the distribution of train tickets. This calculation is therefore based on the assumption that SNCF Connect would have a business profile close to that of the aggregate of the three ADN Mobilités members.
- 2.104 In practice, SNCF paid a total of [<] in commissions to Trainline, Omio and Kombo in 2023. In addition, the market shares for ticket distribution show that SNCF sold online tickets worth approximately [<] more than the members of ADN Mobilités in 2023. SNCF Connect would have received approximately €154 million if its internal remuneration were set in line with the commissions paid to independent ^{distributors}⁶⁴.
- 2.105 Table 5 below shows the results of our indicative margin squeeze test.

⁶² These incremental costs represent all the operator's costs that would vary in the event of an increase of, say, 10% in the customer base.

⁶³ SNCF Connect 2022 Social Accounts, accessible on Pappers.com.

⁶⁴ Market shares are estimated using ADN Mobilités data. The amount of commissions is likely to be

An increase in commission levels may be necessary to ensure the viability of independent distributors' businesses

overestimated insofar as the basket of tickets distributed by the members of ADN Mobilités probably contains a higher proportion of TGVs, for which tickets are on average more expensive than other lines, than the basket of tickets distributed by SNCF Connect.

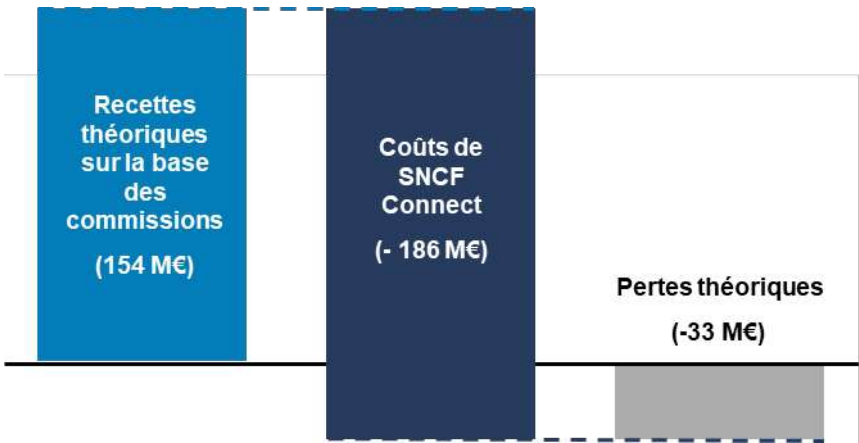
Table 5: Results of our indicative price squeeze test, millions of euros

	Millions of euros
Theoretical revenue based on commissions paid	154
Operating expenses	-186
Theoretical result (losses)	-33

Source: Compass Lexecon based on public data and ADN Mobilités data.

2.106 This table suggests that SNCF Connect would have had a negative operating result (of -€33m) if its remuneration had consisted solely of SNCF commissions. The difference between SNCF Connect's theoretical revenues based on SNCF commissions and its costs is illustrated in Figure 6 below.

Figure 6: SNCF Connect's theoretical losses based on commissions



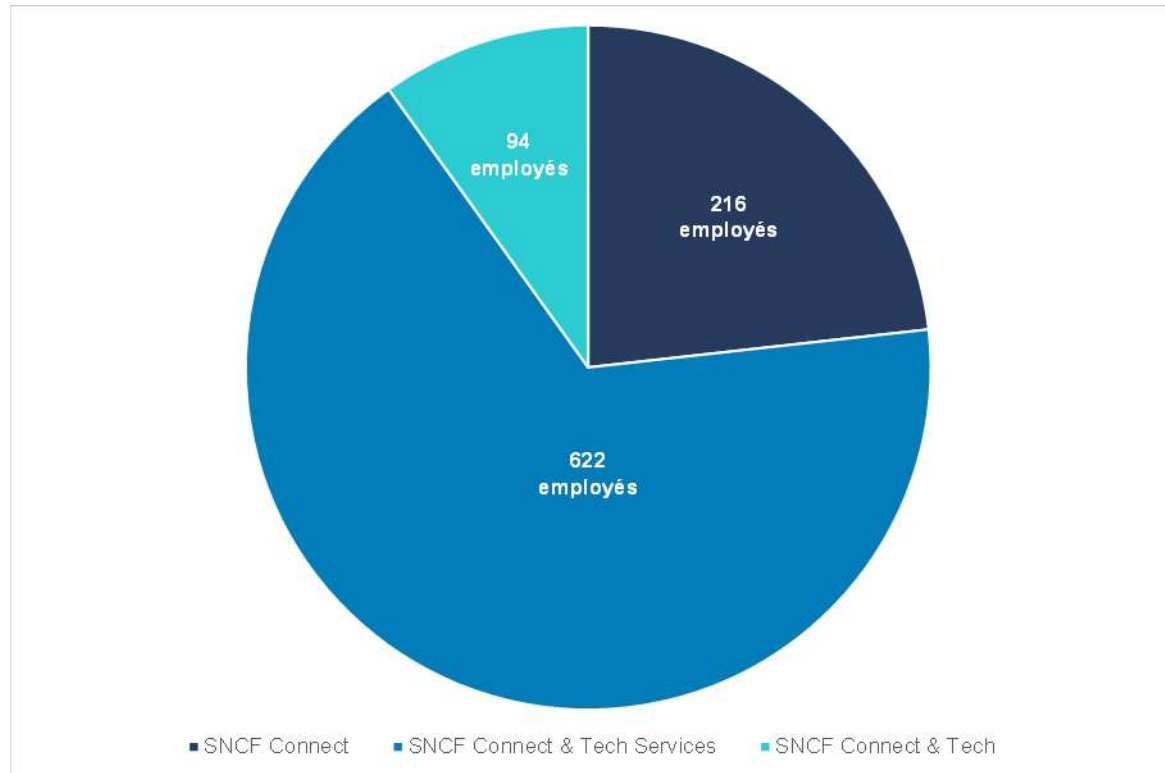
Source: Compass Lexecon based on public data and ADN Mobilités.

- 2.107 It should be stressed that this test is very approximate. As we do not have details of SNCF Connect's costs, we cannot accurately assess the incremental costs linked to the market concerned. We cannot rule out the possibility that SNCF Connect's corporate accounts include expenses relating to the professional market or to tools unrelated to the online distribution of train tickets to the general public⁶⁵.
- 2.108 We also note that there are contradictory sources regarding the number of SNCF Connect employees. For example, SNCF Connect & Tech's Welcome to the jungle page claims 1,178 employees. Of these, it is not clear how much is actually allocated to SNCF Connect.

⁶⁵ On the other hand, certain assumptions in the calculation seem conservative, in particular the assumption that SNCF Connect would have a profit similar to that of ADN Mobilités members, whereas independent distributors are likely to serve more international customers, who may be subject to specific commissions.

Public sources also indicate that the SNCF Connect group would have had around 930 employees in total by 2022, as shown in Figure 7^{below66}.

Figure 7: Breakdown of SNCF Connect employees in 2022



Notes : The number of employees in 2022 for SNCF Connect & Tech Services is not available. We use the number in 2021.
Source: Compass Lexecon based on public data.

- 2.109 Thus, the number of SNCF employees actually working on the distribution of the group's tickets cannot be established with certainty on the basis of publicly available information. However, this allocation of employees between the various distribution-related activities is far from neutral in terms of the result of the price squeeze test. If some of the employees declared within SNCF Connect & Tech or SNCF Connect & Tech Services were in fact working on the distribution of SNCF tickets, the associated costs would also have to be taken into account in the test, the result of which would be mechanically and potentially materially degraded.
- 2.110 To illustrate the scale of this potential impact, it should be noted that the annual payroll costs of SNCF Connect & Tech and SNCF Connect & Tech Services probably represent more than 60 million euros⁶⁷.

⁶⁶ From the public information available on Pappers.com, we understand that SNCF Connect is the company responsible for the "distribution and marketing of passenger transport services for SNCF and partner carriers" through the SNCF Connect platform. SNCF Connect & Tech Services is an IT development company, responsible in particular for the development of the SNCF Connect platform and related SNCF services such as its API. SNCF Connect & Tech holds 100% of the shares in SNCF Connect and SNCF Connect & Tech Services and is therefore a holding company in charge of coordinating these two companies and developing the SNCF Connect group.

⁶⁷ This conclusion is also supported by an indicative test based on Trainline's financials. [∞].

As this is a market that has recently been opened up to competition, proactive intervention seems advisable.

Competition law prohibits the use of price squeeze tariffs

- 2.111 The application by a dominant undertaking of rates that lead to a price squeeze constitutes an abuse of a dominant position and is therefore contrary to Article L. 420-2 of the French Commercial Code and Article 102 of the Treaty on the Functioning of the European Union.

Consequently, if the Competition Authority were to identify the existence of a margin squeeze, it would in principle have to impose a penalty on SNCF and order it to set commission rates sufficient to enable distributors to compete effectively with SNCF Connect on the ticket distribution market.

Ex post control of competition law is sometimes insufficiently applied

- 2.112 However, the application of competition law can sometimes prove to be inappropriate or insufficient to allow real development of competition in a recently liberalised market.
- 2.113 In markets that have recently been opened up to competition, where there is significant asymmetry between the incumbent operator and new entrants, public authorities frequently resort to what is known as "asymmetric" regulation. The aim of this type of regulation is to ensure that competition takes root effectively and sustainably, without the incumbent exploiting its position to obstruct or delay this transition.
- 2.114 In markets that have recently been opened up to competition, incumbent operators often have major advantages, as they possess the entire customer base at the time of opening, facilities or know-how that cannot be reproduced by new entrants. The sector regulator then implements temporary regulation aimed at facilitating the installation of new entrants on the market, for example by allowing new entrants to take advantage of the incumbent operator's facilities that cannot be reproduced by new entrants, or by ensuring that the incumbent operator allows new entrants access to its infrastructures under conditions that allow them to develop.
- 2.115 Once a stable and satisfactory competition framework has been achieved, regulation is generally lifted to make way for competition law alone.
- 2.116 One example is the sector-specific regulation of fixed-line telephony. After opening up to competition, to ensure that effective competition was established, the regulator *introduced ex ante* price controls on France Télécom's offerings, to ensure that the operator's retail and wholesale tariffs systematically provided sufficient economic space for new entrants, whose viability was highly dependent on the decisions of the incumbent operator. Then, as competition increased, this system was progressively eased, eventually giving way to competition law.
- 2.117 In short, sector regulators intervene in sectors where effective competition is unlikely to take hold naturally and where competition must be replaced by regulatory intervention. Regulation is imposed *ex ante* and on an ongoing basis, creating a structural framework to remedy market failures, while competition law is applied *ex post* against anti-competitive behaviour on a sporadic basis.

Supervision of SNCF's commission levels by the regulator could be appropriate

- 2.118 It seems to us that the question arises as to whether in the train ticket distribution market, where competition is still developing, competition law is sufficient to guarantee the establishment of a satisfactory competitive framework, enabling new entrants to compete with the incumbent operator.
- 2.119 This raises the question of the existence of a market failure.
- 2.120 We believe that SNCF's position vis-à-vis independent distributors could constitute a market failure:
- a. SNCF remains the pre-eminent player in the upstream passenger rail transport market and, as a result, is virtually monopolistic in relation to independent distributors;
 - b. SNCF also competes with distributors on the distribution market, where it also has a pre-eminent position and a very high profile;
 - c. The SNCF largely dictates the conditions under which independent distributors operate, as it determines their economic space by setting its commission;
 - d. SNCF is encouraged to limit the development of independent distributors, in particular because they are likely to encourage the development of competition in the transport sector.
- 2.121 Given the stakes involved in competition in distribution - which, as discussed in the next section, is set to play a major role in competition in the rail passenger transport market - it could be considered that, in this case, *ex post* control of competition law is not a sufficient safeguard and that ongoing control would be more appropriate.
- 2.122 Furthermore, it should be noted that if the existence of a margin squeeze were to be confirmed, this would not necessarily imply that these practices were the result of SNCF's desire to drive its competitors out of distribution. This type of issue may also reflect the undeniable difficulty faced by a former monopoly operator when it has to rapidly adapt its model to a newly competitive situation and integrate all the implications of applying competition law. In this sense, regulatory intervention such as an accounting separation, described below, would have the virtue of helping (albeit by constraint) SNCF to adapt to the new market structure, by enabling not only the regulator but also the company itself to assess the compliance of its pricing conditions.
- 2.123 Regulatory intervention could therefore take several forms.
- 2.124 A first possibility would be the implementation of *ex ante* control by the sector regulator of the commission levels applied by the incumbent ^{operator⁶⁸}.
- 2.125 Another solution would be to set up an accounting separation of the incumbent operator's activities, to ensure that there is no discrimination or cross-subsidisation. The accounting separation of SNCF's distribution activities would make it possible to monitor the risk of price squeeze thanks to a clear delimitation of SNCF Connect's expenses and income. Incidentally

⁶⁸ In this respect, it should be noted that Article 28 of the Mobility Orientation Act no. 2019-1428 of 24 December 2019 provides that multimodal digital service providers may refer to the ART a dispute concerning (among other things) the distribution of transport tickets.

that the ART has already ordered SNCF to separate its accounts for the activities of SNCF Voyageurs and SNCF ^{Fret69}.

- 2.126 Whatever form it takes, given that the ticket distribution market has recently been opened up to competition and that the development of effective competition depends on the fares charged by the incumbent operator, it seems to us that it would be appropriate for the public authorities to intervene to ensure that the commission granted by SNCF is at an appropriate level.

An increase in commission levels may be necessary to ensure the viability of independent distributors' businesses

69 Decision n°2017-101 of ARAFER, succeeded by ART.

3 Independent distributors are essential to effective competition in the rail passenger transport sector

Introduction

- 3.1 Intervention to guarantee sufficient economic space for independent distributors is all the more desirable as they are essential to the development of competition in the rail passenger transport sector.
- 3.2 Independent distributors are the most likely to provide effective competition on the ticket distribution market, since integrated transport operators have no incentive to offer their competitors' tickets, since the commission received on the sale of a competitor's ticket is negligible compared with the loss of revenue caused by selling a competitor's ticket instead of a ticket on the same route.
- 3.3 In addition, the entry of independent distributors also makes it possible to boost competition in the upstream passenger transport market, by centralising and making it easier to compare the various offers, and by reducing the barriers to entry for new entrants who are less well known than the incumbent operator.

Independent distributors are essential to effective competition in the distribution market

- 3.4 It is clear from Section 2 that the levels of commission granted by SNCF for the distribution of train tickets are too low to leave sufficient economic space for independent distributors to develop, which could constitute an abuse of a dominant position. It is important to remember that the entry of independent distributors is essential in order to observe effective competition on the train ticket distribution market, to the benefit of consumers, but that it will also allow competition to develop on the passenger transport market.

Independent distributors are currently the only players driving competition in the distribution market.

- 3.5 As mentioned *above* in paragraphs 2.32 to 2.36, SNCF has a dominant position in the French rail industry, both in the passenger transport market and in the related ticket distribution market.

The majority of train tickets currently distributed are SNCF tickets

- 3.6 With regard to the passenger transport market, although the domestic rail passenger transport market has recently been opened up to competition, and competing operators

are few in number and are confined to certain routes and certain types of train. In particular, only Trenitalia (on the Paris-Lyon and Paris-Lyon-Chambéry-Modane-Turin-Milan lines) and Renfe (on the Lyon-Barcelona and Marseille-Madrid lines) compete with SNCF on high-speed lines, and only Transdev on conventional lines.

- 3.7 As a result, SNCF retains a market share of 98% on freely organised rail transport⁷⁰ and virtually 100% on lines operated under contract. In fact, SNCF is responsible for most of the traffic in France, and therefore for ticket distribution. SNCF tickets are distributed by SNCF and by independent distributors, but due to the close links between the passenger transport and ticket distribution markets, SNCF retains a pre-eminent position in ticket distribution, as the majority of passengers wishing to purchase an SNCF ticket turn to SNCF for the act of purchase.

The only way to stimulate competition in the ticket distribution market is to compete with SNCF in the sale of its own tickets.

- 3.8 As things stand, therefore, competition on the ticket distribution market can only take place by offering SNCF's services, given its pre-eminent position in passenger transport, as long as the activity of other transport operators remains limited.
- 3.9 For example, only a quarter of French people said they had already used a platform other than SNCF Connect to buy a train ticket in 2023⁴¹ ; but these users mainly turned to independent distributors, with Trenitalia (the only alternative transport operator active at the time) accounting for only 2% of usage.
- 3.10 Independent distributors are therefore at this stage the only source of competition with SNCF on the distribution market, as alternative transport operators have no incentive to sell SNCF tickets on their platforms, which would represent an opportunity cost compared with their own tickets.

The independents will remain the main vectors of competition in distribution

Integrated operators will have no incentive to stimulate competition in ticket distribution

- 3.11 Competition in the rail passenger transport market is set to develop with the rise of operators competing with SNCF in France. These transport operators will distribute their own tickets and will therefore be *de facto* new entrants to the ticket distribution market.
- 3.12 However, independent distributors are likely to remain the main source of competition in distribution, as it is unlikely that integrated operators will really drive competition in the distribution market.
- 3.13 Transport operators are likely to offer mainly their own tickets and will have little incentive to distribute competitors' tickets - or, at the very least, they will have no natural incentive to systematically and objectively promote the entire transport offer of all competitors.
- 3.14 Vertically integrated rail operators incur an opportunity cost if they recommend a journey made by another operator when they themselves operate on the route in question.

⁷⁰ ART estimate for 2022.

question. Particularly on connecting routes. This is because, even if the operator receives a commission from its competitor for the sale of its ticket, this is negligible compared with the loss of revenue caused by the sale of a competitor's ticket instead of a ticket on the same route.

Independent distributors will be able to centralise and compare existing offers

3.15 Independent distributors, on the other hand, have every interest in having the widest possible portfolio and offering all travel options. They are, in principle, ^{indifferent}⁷¹ between inter-operator and single-operator routes, ultimately offering the cheapest, fastest or most convenient route to stand out from the crowd.

3.16 These are the main findings of the regulator:

"The Authority considers that the dynamism of competition in passenger rail transport can be increased by allowing players in the digital economy, known as "pure players", to compare service offers and distribute tickets. By acting as intermediaries between railway undertakings on the one hand and consumers on the other, these platforms have the advantage of offering a complete and objective comparison of existing offers on the market while reducing transaction costs for consumers, who are no longer obliged to make numerous comparisons. "⁷²

3.17 It is therefore reasonable to expect independent distributors to become the main players in train ticket distribution once competition has taken hold in the passenger transport market. This is particularly the case because these players make it possible to centralise and compare a range of transport services that is set to expand with the growing number of operators on the market.

Effective competition in the distribution market is conducive to improving the quality of services offered to users.

3.18 The development of independent distributors therefore provides a better user experience when comparing the offers of different passenger transport operators; moreover, competition between these independent distributors and with integrated distributors also improves the quality of services offered to users.

Faced with integrated operators, including the incumbent, competing distributors have an incentive to improve the quality of the services offered to users in order to grow.

3.19 The market for the distribution of train tickets is characterised by a high degree of substitutability between the goods offered by the different players, since a given train ticket remains identical and gives access to the same services regardless of the player distributing it.

3.20 As a result, and because price competition is impossible as mentioned *above*, the only way for an independent distributor to compete with SNCF services (or those of other

⁷¹ A potential counter-argument would be the introduction of bias into the offer of independent distributors, who would favour the most profitable options for them, depending on the different levels of commission between operators. This bias is mitigated by the incentive for independent distributors to offer a complete range of products in order to stand out from integrated distributors and attract the

Independent distributors are essential to effective competition in the rail passenger transport sector

⁷² largest possible number of customers.
[ART 2018, p. 21], emphasis added.

The key to the success of the rail network and to gaining market share is to offer a higher quality of service, attractive ancillary services and innovative solutions.

- 3.21 These characteristics of the distribution market imply that effective competition should in principle generate material benefits for consumers, for example: a better user experience, with a clearer interface, better algorithms for determining routes for connecting journeys, a more responsive and efficient customer service, etc.
- 3.22 In the alternative case where independent distributors cannot develop properly (as a result of too little economic space left by the transport operators), the distribution market would remain dominated by the transport operators. Thus, because operators have no incentive to distribute competitors' tickets, each operator would have a monopoly on the distribution of its own tickets.
- 3.23 In this situation, the integrated operators are not competing on the distribution market by improving the quality of service. The user experience of the purchase becomes a criterion relating to the ticket purchased, but remains secondary to the price of the ticket or the journey time. It is therefore expected that there will be less competition between operators in terms of ticket distribution service quality, and therefore less improvement in service quality for the benefit of users.

This competition has already helped to improve services in the French train ticket distribution market.

- 3.24 What's more, we can see that the independent distributors operating in France have already made significant improvements to the services offered to travellers and to the user experience.
- 3.25 *Firstly*, some independent distributors such as Omio and Kombo offer intermodal journeys⁷³. These distributors offer greater flexibility to users by allowing them to combine various modes of transport, such as rail or air, to reach their destination. This diversification of travel options allows users to tailor their itinerary to their particular needs, whether in terms of time, cost or personal preferences.
- 3.26 *Secondly*, some independent distributors have developed tools enabling users to book journeys at a lower cost. These tools take advantage, on the one hand, of the differentials in ticket prices over time generated by yield management and, on the other hand, of the differences in fares between segments of a journey. For example, Trainline's "Smart Price" mechanism⁷⁴ examines, for a given route, the best possible fare by breaking down the journey into several segments, where the sum of the prices of the individual tickets is lower than that of a single ticket. In addition, Trainline's price prediction tool⁷⁵ anticipates fare fluctuations generated by yield management, enabling users to book their ticket when it is cheapest.
- 3.27 *Thirdly*, independent distributors stand out by improving the user experience, in particular the journey booking process and after-sales service.

⁷³ SNCF Connect also offers intermodal journeys, but only between trains and buses operated by the SNCF.

⁷⁴ <https://www.theTrainline.com/fr/information/prix-futes>

⁷⁵ <https://www.theTrainline.com/fr/information/prediction-des-prix>

- 3.28 With regard to the booking process, Table 6 below shows how the user's search and purchase path is simplified on the independent distributors' applications. The process of booking a train journey in France for a non-registered user is broken down into the number of pages, clicks and fields to be filled in manually.

Table 6: Ease of the booking process from selection to payment

	Trainline	Omio	Kombo	Average	SNCF Connect
Number of pages	4	4	7	5	8
Number of clicks	11	10	13	11	16
Number of fields to fill in	7	7	8	7	8

Notes: The "number of clicks" corresponds to the minimum number of clicks required to move from one page or step to the next. Source: Compass Lexecon based on public data from theTrainline.com, sncf-connect.com, omio.fr and kombo.com websites extracted on 15/05/2024.

- 3.29 As Table 6 shows, the booking process is faster on the Trainline, Omio and Kombo platforms than on SNCF Connect. In total, users can book a journey they have selected by browsing 4 to 7 web pages and clicking 10 to 13 times on third-party platforms, compared with 8 pages and 16 clicks on SNCF Connect.
- 3.30 In terms of sales service, it appears that independent distributors are also playing a significant role in improving the transmission of information and simplifying post-sales procedures, particularly in the event of delays. For example, in 2022 Trainline introduced real-time notifications on its app informing users of expected delays, enabling them to anticipate or adjust their journeys to or from the station to limit waiting times. What's more, after the journey, Trainline and Kombo offer assistance with the administrative procedures involved in obtaining a refund on behalf of the user. Based on the observation that 69% of customers eligible for compensation do not claim it, Trainline has developed the "Recup' delay" ^{function76} to simplify these procedures. Kombo informs users that they are eligible for compensation and automatically reimburses them for this amount, with no action required on their part.
- 3.31 *Fourthly*, the existence of several alternative distributors ensures continuity of service in the event of technical problems affecting one of the distributors. In effect, the technical failure of one distributor is compensated for by the use of competing distributors, *ultimately* limiting the inconvenience for users. In addition, it appears that travellers practice "multi-homing", i.e. they tend to use several ticket dispensing ^{applications77}, so the failure of one of the applications is in principle instantly compensated for by a competing application. It should be noted that this transfer to third-party distributors is possible when the capacity constraints of the distributors are low (the constraints stem from the limits of the computer servers, which are nonetheless capable of absorbing an increase in the number of connections).

⁷⁶ <https://www.theTrainline.com/fr/information/recup-retard>

⁷⁷ Trainline, for example, recorded a 50% increase in sales in just a few weeks after the problematic launch of SNCF Connect in 2022 (<https://www.lesnumeriques.com/emission/dans-l-ombre-de-sncf-connect-trainline-monte-en-puissance-en-europe-em207822.html>), indicating that consumers are capable of being active on several applications at the same time, depending on their needs.

- 3.32 Conversely, in a situation of monopoly or dominant position, the failure or deterioration of the distributor's service has a material impact on users, who are captive to this service. For example, when SNCF rolled out the SCNF Connect platform to replace the OUI.sncf and L'Assistant applications, users reported numerous technical problems with the application. Many of them, used to the SNCF application or misinformed about the existence of competing applications, found themselves at a loss when purchasing tickets. This situation was also observed during the opening of ticket sales for the Christmas period at the end of 2023.⁷⁸ The impact of these failures would have been less in the case of a less concentrated market, particularly if users practised multi-homing.
- 3.33 In the end, the unsuccessful launch of SNCF Connect led to a substantial increase in the number of new customers for competing applications. In the weeks following the unsuccessful launch, these platforms experienced remarkable growth, with an estimated increase of around 50% in both traffic and sales.⁷⁹
- 3.34 Thus, all these factors brought about by competition between distributors contribute to an improvement in the quality of services on the train ticket distribution market in France. The improvement in service quality can be seen, among other things, by comparing the average scores of the Trainline, Kombo and Omio applications with those of SNCF Connect, as shown in Table 7 below.

Table 7: Average score for distribution applications

Platform	Trainline	Omio	Kombo	Average SNCF Connect	
App store	4,8	4,7	4,6	4,7	4,6
Google Play	4,7	4,4	4,7	4,6	4,4
Trustpilot	4,3	4,4	4,2	4,3	1,2

Source: Compass Lexecon based on public data from the App Store and Google Play Store, extracted on 15/05/2024, and from Trustpilot on 29/05/2024.

- 3.35 The table below shows that on the two main application platforms (App store and Google Play), the Trainline, Omio and Kombo applications all have a score higher than or equal to that of SNCF Connect. In addition, the average rating of the three independent distributors' applications is higher than that of SNCF Connect. These observations are reinforced by the average scores obtained on Trustpilot, where the gap between the independent distributors and SNCF Connect is clear. This result suggests that the additional functionalities provided by the independent distributors' applications described *above* are perceived as objective improvements by users, who favour these applications over SNCF Connect.

⁷⁸ <https://www.lavoixdunord.fr/1380872/article/2023-10-04/des-gros-bugs-sur-sncf-connect-apres-l-ouverture-reservations-for-christmas>

⁷⁹ <https://www.europe1.fr/economie/sncf-connect-les-bugs-de-la-nouvelle-application-profitent-a-la-competition-4094760> and <https://www.lefigaro.fr/voyages/conseils/deboires-de-sncf-connect-queles-sont-les-alternatives-for-booking-your-train-ticket-20220223>

Independent distributors also promote competition in the rail passenger transport market

- 3.36 While the first signs of the opening up of the rail passenger transport market have been seen over the last two years, with the arrival of Trenitalia and Renfe on the French market, the market is set to be gradually liberalised, beyond any consideration of the ticket distribution market. However, it is clear that developments in the ticket distribution market will have a direct impact on the passenger transport market.

Independent distributors will make it possible to centralise and compare the offerings of the growing number of operators and overcome the fragmentation of services.

- 3.37 In this respect, it seems essential to allow independent distributors to compete on a long-term basis with integrated operators, as this will directly benefit the fluidity and strengthening of competition that will develop on the rail passenger transport market. This is because independent distributors are the only ones with an incentive to reduce the cost of searching for information about the journeys offered by different transport operators. The independent distributors' platforms make it possible to centralise the offers of all the operators and thus make it easier to compare ^{them}⁸⁰.
- 3.38 Unlike independent distributors, integrated distributors have an incentive to favour the distribution of their own journeys and stifle competition on the rail passenger transport market, as they incur an opportunity cost if they recommend a journey provided by another operator when they themselves operate on the line in question.
- 3.39 Furthermore, opening up to competition is likely to make the rail transport market more complex, particularly on regional lines, due to the fragmentation of transport services and differences in the management of regional ^{services}⁸¹.
- 3.40 The Autorité de la concurrence notes that :

"However, it appears that this fragmentation is mainly the result of the increasing involvement of the AOMs [mobility organisation agencies] in the organisation of their transport services, which leads them to make differentiating choices. These choices may reflect specific regional features or innovations that are then passed on to the various transport services. For example, passengers on all TER radial lines in the Normandy region ("Nomad", Krono+ lines and the Paris-Granville route) must have a ticket with a reservation (time and seat number), whereas no reservation is possible on TER trains in the Burgundy-Franche-Comté region (Mobigo)".

- 3.41 Independent distributors can also help to facilitate ticket distribution, by adapting the booking process to the specific characteristics of each region, and by taking account of season tickets and advantages specific to each region. These services are already offered by

⁸⁰ This is particularly true for freely organised services, where several operators compete for a route. On the other hand, on contract routes, a single operator is awarded the management of the route. The distributors have less influence on the development of competition among transport operators.

⁸¹ Paragraphs 998 et seq. of the Autorité de la Concurrence's [opinion on the land passenger transport sector](#) of 29 November 2023.

independent distributors for cross-border journeys, they would naturally and at low cost be extended to French journeys once competition has been opened up.

The presence of independent distributors will reduce the high barriers to entry for new carriers.

3.42 Thus, when an incumbent operator enjoys a strong position both on the passenger transport market and on the ticket distribution market (which is the case here), alternative operators face high barriers to market entry. These barriers arise in particular from the lack of brand awareness suffered by alternative operators, preventing passengers from naturally turning to these operators' distribution channels when looking for a journey, in favour of the incumbent operator's distribution channel. As the incumbent has no incentive to distribute its competitors' tickets, alternative operators have very limited distribution channels.

Conversely, independent distributors have every interest in distributing the tickets of all passenger transport operators without any incentive bias, in order to have the widest possible portfolio of offers. As a result, the offers of alternative transport operators are on an equal footing (in terms of distribution) with the offers of the incumbent operator on the distribution platforms of independent distributors, as long as the consumer's choice is primarily based on the timetable of the journey and its price. This is illustrated by the design of the independent distributors' applications, on which the name of the journey operator appears as secondary information, compared with the timetable, journey time and price. Figure 8 below shows a standard journey selection page on the Trainline, Kombo and Omio websites.

Figure 8: Trip selection page on the Trainline, Kombo and Omio applications



Notes : Paris-Lyon route for 22 June 2024. Pages found on 05/06/2024 at 17:24 (CET).
Source: Compass Lexecon based on the websites of Trainline (<https://www.thetrainline.com/fr>) , Kombo (<https://www.kombo.co/fr>) and Omio (<https://www.omio.fr/>)

3.43 This figure shows that the Kombo and Omio sites attach significantly more importance to the price than to other information, in particular the carrier, which only comes second or even third. On Trainline, the first item of information is the journey time, followed by the price and the carrier. In all other respects, the offers of the various operators are comparable.

3.44 In this way, the development of independent distributors greatly limits the barriers to entry to the passenger transport market for new entrants, by offering them a distribution channel that enables them to reach all passengers under the same conditions as the incumbent operator.

3.45 This observation has also been made by the sector regulator:

"In addition, these platforms make it possible to reduce the lack of awareness that penalises new entrants. However, in order for these platforms to generate these efficiency gains, they must have access to all of the operators' offerings as well as their prices "⁸².

- 3.46 Finally, the case of Ouigo ticket distribution in Spain illustrates this point. SNCF is a new entrant to this market, competing with Renfe, the incumbent operator. As such, it suffers from a lack of awareness compared to Renfe, as Spanish travellers do not turn to the SNCF distribution channel for their purchases. It is therefore in the SNCF's interest to be correctly referenced in the offers of independent distributors to compensate for this lack of awareness.
- 3.47 We understand that the commission paid by SNCF to independent distributors for Ouigo tickets is materially higher than in France, up to four times ^{higher⁸³}.

The importance of independent distributors is recognised by the regulator

- 3.48 More generally, the Authorities emphasise the pro-competitive effect of the activity of independent distributors on the upstream passenger rail transport market:
- a. The ART *"recommends that the opening up to competition of the market for domestic passenger rail transport services should also be accompanied by fair access to information on the rail companies' offers by all players in the ticket distribution market, so that the efficiency gains generated benefit consumers "⁸⁴.*
 - b. It points out that *"the dynamism of competition in transport [is] increased by allowing players in the digital economy [...] to compare service offers and distribute tickets. These platforms [...] have the advantage of offering a complete and objective comparison of existing offers on the market while reducing transaction costs for consumers since they are no longer obliged [...] to make numerous comparisons. "⁸⁵*
 - c. In a report on competition in the land passenger transport sector, the French competition authority (Autorité de la Concurrence) noted that independent ticket distributors make it possible to create competition between ^{carriers⁸⁶}.
 - d. The Bundeskartellamt in a ^{decision⁸⁷} issued against Deutsche Bahn for anti-competitive practices against independent train ticket distributors in Germany notes that the restrictions imposed by DB on third party distributors also affected competing rail passenger transport companies, especially small operators, who are dependent on third party platforms to expand their market presence.

⁸² ART - L'ouverture à la concurrence du transport ferroviaire de voyageurs en France, 2018, p. 21.

⁸³ For example, the basic commission for Kombo is [∞].

⁸⁴ ART- L'ouverture à la concurrence du transport ferroviaire de voyageurs en France, 2018, p.21.

⁸⁵ ART- L'ouverture à la concurrence du transport ferroviaire de voyageurs en France, 2018, p.21.

⁸⁶ Paragraphs 998 of [the](#) Autorité de la Concurrence's [opinion on the land passenger transport sector](#) of 29 November 2023.

⁸⁷ Bundeskartellamt decision B9-144-19 of 26 June 2023 and Bundeskartellamt press release of 28 June 2023.

4 The introduction and maintenance of appropriate remuneration for independent distributors is desirable from a societal point of view.

Introduction

- 4.1 The entry of independent distributors contributes to various pro-competitive effects for the benefit of consumers in the rail passenger transport sector. One of these effects is an increase in demand for rail transport services, brought about by increased competition (thanks to lower prices), greater ease of purchase and a modal shift towards rail.
- 4.2 These positive effects are not offset by any significant negative effects. While we understand that some players are concerned about the potential effect of the duplication of fixed costs induced by the entry of new distributors on the price of train tickets, we show that this duplication will not, in principle, be passed on to the ticket price and that, in any case, it would represent an insignificant proportion of the ticket price, of the order of 0.1%.
- 4.3 Finally, it appears that the additional costs for SNCF in the short term linked to the increase in the commission paid will be easily offset by the increase in demand induced by the entry of new players. For example, a 0.2% increase in demand for SNCF services would cover a doubling of the commission.

The activity of independent distributors has many pro-competitive effects for the benefit of consumers

- 4.4 The previous section established that independent distributors play a decisive role in establishing effective competition on the ticket distribution market, and also on the passenger rail transport market. This increased competition has various pro-competitive effects for the benefit of consumers, foremost among which is the increase in demand for rail transport.

The improvement in ticket distribution services brought about by increased competition is leading to an increase in demand throughout the sector.

- 4.5 The activity of independent distributors is decisive in enabling or facilitating competition on the ticket distribution market and the rail passenger transport market. In doing so, the activity of independent distributors brings or contributes to bringing several direct or indirect pro-competitive effects to these two markets:
 - a. Improved coverage of different carrier offers;
 - b. Improved quality of service in distribution;

- c. Innovative distribution ^{services⁸⁸} ;
- d. Facilitating the purchase and use of intermodal journeys;
- e. This will make it easier to compare offers from different carriers, thereby increasing competition in the transport sector and helping to bring prices down;
- f. A contribution to improving service quality and innovation in the transport sector;
- g. Increased demand for rail transport services.

4.6 This last aspect, namely the increase in demand for rail transport services, is the cumulative result of several effects of the activity of independent distributors:

- a. As explained in section 3, the development of independent distributors makes it possible to intensify competition on the rail passenger transport market, thanks in particular to the centralisation and direct comparison of carriers' offers. This increased competition leads to lower prices and better services on the passenger transport market, which in principle automatically leads to an increase in demand for the services concerned.
- b. By making it easier for customers to buy tickets, and by offering innovative services on the train ticket distribution market, the new entrants' offers are likely to increase the intra-modal complementarity of rail.
- c. Finally, it is expected that the entry of new distributors will lead to a modal shift, on the one hand through a substitution effect due to the improvements mentioned *above* and the greater attractiveness of the train compared with other modes of transport, and on the other hand through a complementarity effect linked to the facilitation of intermodal journeys offered by these distributors.

4.7 In this respect, a McKinsey ^{study⁸⁹} concludes that it is possible to increase the modal share of rail in terms of demand, mainly through a combination of advantages in terms of price and journey time. While the price advantage that may result from the entry of independent distributors stems directly from the intensification of competition described *above*, the arrival of new entrants could also lead to a gain in time advantage, not by reducing the length of train journeys *per se*, but by optimising intra- and intermodal connections.

The sector has the capacity to respond to the increase in demand brought about by greater competition in the ticket distribution market

4.8 It follows from the above that the entry of independent distributors would be likely to increase demand for rail passenger transport services. However, it is necessary to ensure that the sector is capable of meeting this increase in demand. In this respect, it should be noted that although certain routes are subject to constraints, there is substantial capacity available to meet an increase in demand for rail transport.

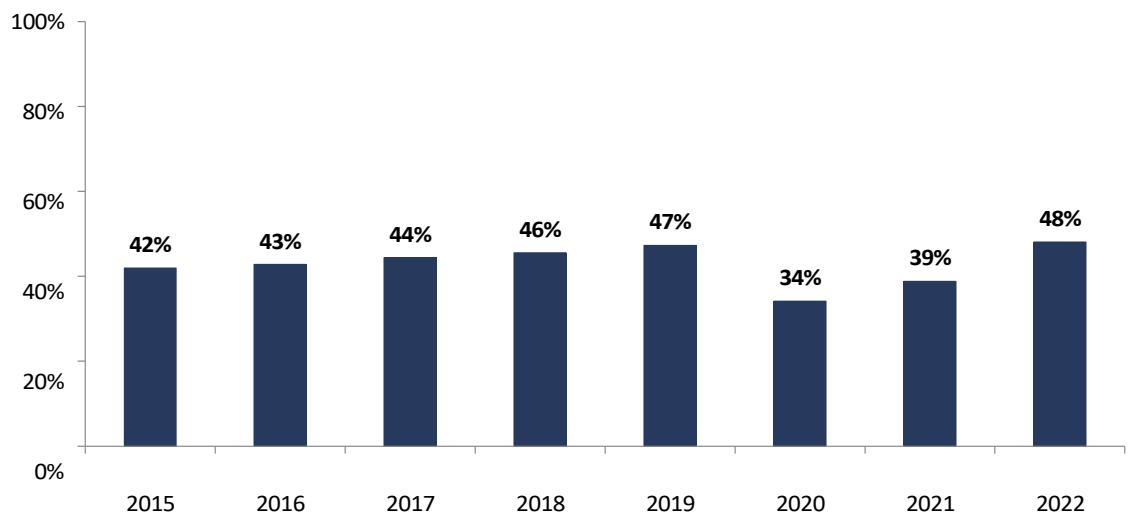
⁸⁸ The replacement effect, highlighted by Arrow (1962), shows that the incentive to innovate of a company in competition is stronger than that of a monopoly. By innovating, a company in competition that would be the only one to innovate moves from zero profit to positive profit. Whereas a monopoly, in the same situation, replaces itself and only obtains a profit differential.

⁸⁹ McKinsey, "How to entice travellers to change tack to track".

Trains in service have a load factor that suggests they are capable of meeting an increase in demand

- 4.9 The capacity of the rail passenger transport sector is determined mainly by the number of passengers on trains and the frequency with which these trains run. It appears that capacity can be increased along these two dimensions.
- 4.10 Firstly, current train capacity is not completely saturated and would be able to absorb an increase in demand. According to the ART, the average occupancy rate for rail transport was 48% in 2022⁹⁰. Figure 9 below shows the evolution of the average train occupancy rate in France from 2015 to 2022.

Figure 9: Change in the average occupancy rate for passenger rail transport in France between 2015 and 2022



Source: Compass Lexecon, based on ART data, available at <https://www.autorite-transport.fr/observatoire-des-transport/marche-du-transport-ferroviaire>.

- 4.11 Figure 9 above shows that, since 2015, the occupancy rate for passenger trains in France has never exceeded 50%. The Covid-19 pandemic brought the slow progress of previous years to a halt, causing the occupancy rate to fall below 40%. In 2022, the occupancy rate will reach 48%, a level close to that of the period preceding the Covid 19 health crisis (47% in 2019).
- 4.12 This apparently low average occupancy rate in fact masks a high disparity between the different types of line. Table 8 below shows the same average occupancy rate, this time broken down by line type, between 2015 and 2022.

Table 8: Change in average occupancy rate by train type between 2015 and 2022

Average occupancy rate	2015	2016	2017	2018	2019	2020	2021	2022
TER	25%	25%	25%	26%	27%	21%	23%	29%
Transilien and RER	30%	32%	35%	35%	33%	21%	24%	32%

⁹⁰ ART - The essentials of the 2022 rail review, p. 15.

Table 8: Change in average occupancy rate by train type between 2015 and 2022

Intercités	37%	37%	39%	40%	46%	49%	52%	61%
Domestic SLOs	61%	63%	67%	67%	72%	59%	65%	75%
International SLOs	68%	63%	44%	69%	68%	43%	48%	63%
All services	42%	43%	44%	46%	47%	34%	39%	48%
All services (excluding RER RATP)	41%	42%	44%	45%	47%	35%	39%	48%

Source: Compass Lexecon, based on ART data, available at <https://www.autorite-transport.fr/observatoire-des-transport/marche-du-transport-ferroviaire>.

- 4.13 This table shows the significant variation in occupancy rates between the different types of line. While the occupancy rate on domestic freely organised **services** (i.e. mainly domestic high-speed lines) will reach 75% in 2022, it will be only 29% for TER.
- 4.14 This disparity in fact reflects the difference in concept and objective between SLO lines and lines operated under contract. Indeed, SLO lines concern very busy routes between two major cities, on which tolls are high, while the operators are in direct competition for passenger transport. In fact, these operators are seeking to achieve good profitability, which requires high occupancy rates, synonymous with efficient use of their rolling stock and tolls.
- 4.15 On the other hand, subsidised lines (Intercités and TER) generally link smaller towns, and even play a role in providing fine regional services, helping to open up certain areas. These lines are subsidised by the public authorities and would not be able to achieve an acceptable level of profitability without these subsidies. As a result, the operators in charge of these routes (currently almost exclusively the SNCF) are moving away from the search for efficiency that would be seen in a competitive market, and must respond to the need for frequency, which drives down the occupancy rate.
- 4.16 Thus, even if the rail passenger transport sector does not have the capacity to double its occupancy rate, as a simple reading of the overall occupancy rate might suggest, the analysis shows that both SLO lines and contracted lines can increase their occupancy rates⁹¹.
- 4.17 It should also be noted that the new entrants on SLO lines have a lower occupancy rate than SNCF TGVs. Trenitalia, for example, has a 60% occupancy rate on the Paris-Lyon route.⁹²

⁹¹ For SLO lines, a comparison with Spain shows that the occupancy rate could reach 82%, an increase of 7 percentage points on the current situation. With regard to contract routes, the situation in neighbouring countries is not directly comparable. However, we note that medium-distance lines under contract in Spain had an occupancy rate of 62% at the end of 2023, while long-distance lines under contract had an occupancy rate of 86%. These figures can be compared with TER and Intercités occupancy rates in France of 29% and 61% in 2022 respectively.

⁹² https://www.bfmtv.com/economie/entreprises/transport/concurrence-dans-le-tgv-trenitalia-dans-le-rouge-en-france-et-ca-ne-risque-pas-de-s-arranger_AV-202402290663.html

- 4.18 Firstly, this confirms that the trains running on the SLO lines have the capacity to cope with the increase in traffic, including on the Paris-Lyon line, the busiest in Europe.
- 4.19 In addition, the lower occupancy of Trenitalia trains shows that the increase in demand brought about by greater competition in the ticket distribution market would be all the more favourable to new entrants to the passenger transport market. With more available capacity than SNCF, these operators will be better able to capture the increase in demand.

Infrastructure can cope with an increase in train frequency

- 4.20 Secondly, it appears that the frequency of services offered is capable of meeting an increase in demand. If high-speed trains have an occupancy rate of around 75%, this is at the expense of their frequency. The rail network would therefore be able to accommodate more trains on high-speed lines and other main lines. In short, this is what ART has found:

"The way these [high-speed] lines are operated by SNCF Voyageurs, which gives priority to filling its high-speed trains over their frequency, leaves available capacity for new operators to run new high-speed services" ⁹³.

- 4.21 This observation also applies to contract services, for which the ART reports that the French Regions see a potential opening up to competition as a considerable vector for increasing supply⁹⁴.

- 4.22 Overall, by 2022, rail passenger capacity in terms of trains.^{km95} will have just about returned to its pre-crisis level (393 million trains.km, +2% compared with 2019) but will still be 4% below the level reached in ²⁰¹⁷⁹⁶. The ART states that the French rail network can support an increase in train frequency, particularly during off-peak hours:

"By 2022, the RFN has not yet returned to the level of traffic seen in 2019. There is still a wide disparity in use between peak hours (which account for 58% of traffic) and night-time traffic, which is 60 to 80% below the average level of traffic observed, including on lines that are already lightly used during the day." ⁹⁷

- 4.23 This increase in supply, taking advantage of track and path capacity, resulting from the opening up to competition, is also beginning to be observed. The ART notes that

"Although the commercial passenger business in France is still largely dominated by SNCF Voyageurs' various brands and subsidiaries of high-speed services, the opening up to competition has already had visible effects on the level of commercial rail services (+10% in the number of trains on the Paris-Lyon route in 2022), the number of passengers on these services and price levels (an average reduction of more than 10% in revenue per passenger-km between Paris and Lyon in 2022)" ⁹⁸.

⁹³ ART - Study on opening up passenger rail transport services to competition in 2022, p. 29.

⁹⁴ ART - Study on opening up passenger rail transport services to competition in 2022, p. 30.

⁹⁵ Unit of measurement corresponding to a train travelling one kilometre.

⁹⁶ ART - The essentials of the 2022 rail review, p. 15.

⁹⁷ ART - Rail Review 2022, p. 4.

⁹⁸ ART - Rail Review 2022, p. 17.

- 4.24 The rail passenger transport business in France therefore has the means, in terms of both train capacity and train frequency, to respond to the increase in supply that independent distributors would bring to the market.
- 4.25 Although the effects of the contribution of independent distributors are difficult to quantify, it is clear that they are favourable firstly to consumers; secondly to the development of the rail passenger transport sector; and thirdly from a societal point of view. Increased competition, improved service quality, lower prices and higher demand should significantly increase consumer surplus.

These positive effects of independent distributors' business are not offset by any significant negative effects.

- 4.26 The considerations presented in the previous section show that the entry of independent distributors has beneficial effects for consumers, primarily an increase in the use of passenger rail transport. In order to properly assess the effects of the entry of independent distributors from a societal point of view, potential negative effects must also be considered alongside the positive effects. It would appear that there are no significant negative effects to mitigate the positive effects.
- 4.27 In this case, the question is whether it is desirable for the company to increase the level of commission received by independent distributors in France to a level that allows their business to be viable.
- 4.28 As we have seen *above*, a number of effects favourable to consumers are conditional on the introduction of sufficient levels of commission. Conversely, we have not identified any significant negative economic effects associated with this decision.
- 4.29 In the remainder of this section, we discuss the only two lines of argument that we believe could be considered by anyone seeking to suggest that increasing commission levels may have adverse effects:
- a. duplication/multiplication of the fixed costs of distributing train tickets; and
 - b. changes in SNCF distribution costs.
- 4.30 We show that these two questions are not such as to call into question the validity, from a societal point of view, of setting commissions for independents at a level that ensures the viability of the distribution business.

The issue of duplication of fixed ticket distribution costs is marginal and largely offset by the beneficial effects of competition.

- 4.31 We understand that some players are considering or may consider opposing an adjustment to the commissions received by independent distributors on the grounds that the presence of several players on this market leads to a duplication/multiplication of fixed costs.
- 4.32 As with any business, each company in the distribution market incurs its own fixed costs, which are necessary for its operation. Increasing the number of companies active on a market therefore implies multiplying some of these fixed costs on a market-wide scale.
- 4.33 However, as this is an issue that applies to any product or service market, it should be noted that this type of argument, unless it is backed up by characteristics

market that makes it relevant to the case in ^{point99}, amounts to a general denial of the virtues of competition and to arguing that a monopoly would be preferable and more appropriate.

- 4.34 The virtues of competition and the fact that, apart from certain very specific ^{situations100}, it is generally preferable and more favourable to consumers is now the subject of consensus in economic literature. Unless we question the fact that competition is generally beneficial to consumers, the question of the multiplication of fixed costs on the train ticket distribution market is not such as to cast doubt on or relativise the need to adjust the commissions of independents so as to make their activity viable and allow competition on this market.
- 4.35 Duplication of fixed costs is inherent to competition in any market involving material costs. This is particularly true of former monopolies that have been opened up to competition. It is generally accepted that the benefits of competition outweigh the duplication of fixed costs, even in markets with high fixed costs.
- 4.36 The fixed costs duplicated on the train ticket distribution market are very limited compared with other markets. In the case of Trainline, fixed costs for its ticket distribution business in France are of the order of [x] euros.
- 4.37 This figure represents a conservative estimate of a distributor's fixed costs. Firstly, because the fixed costs taken into account include marketing expenses, which are higher for new entrants than for the historical distributor, and secondly because the fixed costs are related to the volume of tickets distributed by an independent distributor, which is lower than the volume of tickets distributed by SNCF ^{Connect101}.
- 4.38 By way of illustration, if these fixed costs were related to all tickets sold online, they would represent just two euro cents per ticket, based on 158 million tickets sold.
- 4.39 In any case, it is not expected that the duplication of these fixed costs will be reflected in train ticket prices, as prices are decided by the economic players independently of their fixed costs.
- 4.40 Fixed costs do not depend on the quantities sold and are borne by the company in all cases. In a competitive market, companies seek to cover their variable costs and generate a surplus on the difference between the market price and their variable costs.
- 4.41 If a company believes that this surplus will cover its fixed costs, it will decide to enter the market. Conversely, if a company is unable to cover its fixed costs, it will eventually exit the market. Fixed costs therefore influence the number of companies active on the market (the higher the fixed costs, the fewer companies there will be), but not the market price.
- 4.42 The process of price setting and market entry described here is in fact a classic result of micro-economic theory, which can be found in many competitive markets.
- 4.43 In any case, given the level of the commission, even if it were to be reflected in the price of train tickets (*quod non*), the duplication of fixed costs would be offset by

⁹⁹ For example, the existence of very marked economies of scale.

¹⁰⁰ For example, industries requiring heavy infrastructure and characterised by significant economies of scale.

¹⁰¹ It should be noted, however, that the concept of fixed costs depends on the scope of activities and the timeframe selected.

certain positive effects linked to the opening up of the ticket distribution market to competition, in particular through the price effect. For example, as discussed in paragraph 3.36, the presence of independent distributors increases competitive pressure between rail passenger transport operators, which helps to lower train ticket prices. In this case, it would be sufficient for the contribution of independent distributors to increasing competition on the transport market to lead to a [∞] fall in ticket prices for the duplication of fixed costs to be offset.

- 4.44 It should also be remembered that these effects are not exclusive, but operate simultaneously. The price effect mechanically feeds the volume effect. It is therefore not necessary for each effect to fully offset the duplication, as the cumulative effect may be greater.
- 4.45 These elements show that the duplication of fixed costs resulting from the opening up of the distribution market to competition is limited and that it is in all likelihood offset by the pro-competitive effects of the opening up of the distribution market to competition.

The entry of independent distributors should also improve the efficiency of the business over the long term.

- 4.46 We understand that in certain national markets, the incumbent rail operator claims that the commissions it pays to independent distributors are likely to lead to an increase in its costs and, *ultimately*, to a rise in the price of tickets paid by consumers.
- 4.47 This point of view is based on purely short-termist reasoning.
- 4.48 In the short term, the incumbent operator should keep its distribution structure unchanged and therefore bear relatively stable internal distribution costs, which will be added to the commissions paid to the independents. Over this time horizon, it cannot be ruled out that the incumbent's distribution costs will rise slightly, the extent of which will depend on the structure of distribution costs. This is due to the fact that in the short term, only purely variable distribution costs are avoided by the incumbent when one of its tickets is distributed by a third party, and is therefore subject to the payment of a commission.
- 4.49 But this is only a transitional effect. In the medium and long term, once competition has become established and market shares have stabilised, market players will have adapted their internal organisation and reviewed their distribution model. This is particularly true of the incumbent operator. If, as a result of the rise of third-party distributors, the incumbent now distributes only 50% of its tickets, whereas it used to distribute most of them, its organisation will be reviewed and its internal costs adjusted downwards.

The development of independent distributors can have positive effects on demand for SNCF

- 4.50 Given a given competitive structure on the rail passenger transport market, certain aspects of the activity of independent distributors in France and other European countries should in principle also benefit SNCF by allowing :
- a. An increase in demand for cross-border journeys operated by the SNCF, thanks to the offer of independent distributors active in several countries;
 - b. A simplified entry and ramp-up for SNCF on the national markets of other neighbouring countries, where it would like to set up or expand.

- 4.51 However, SNCF would only need to capture a very small proportion of the additional demand generated by competition in the distribution market and increased competition in the rail passenger transport market to offset the cost of increased remuneration for independent distributors.
- 4.52 Thus, it appears that if the level of commission paid to ADN Mobilités members were doubled annually (which amounted to approximately [∞]), a simple 0.2% increase in demand for SNCF services would be sufficient to offset the increase in costs resulting from the doubling of the ^{commission}¹⁰².

It is therefore essential, in the interests of consumer welfare, that the authorities look into the question of the level of commission paid by SNCF.

- 4.53 It follows from the above that the entry of independent distributors into the market will lead to a number of pro-competitive effects, firstly an increase in demand for rail transport, which will benefit both consumers and carriers. These effects will also benefit the incumbent operator, through an increase in demand for its services and greater efficiency in ticket distribution in the long term.
- 4.54 These positive effects are likely to offset the potential negative effects that some players in the sector could point to, namely the duplication of fixed costs and the increase in SNCF's distribution costs. As a result, the development of these new entrants to the ticket distribution market has a favourable effect on the company.
- 4.55 However, this development could be threatened by an economic space that is too small to develop and reach a break-even point ensuring long-term viability. This economic space is directly dictated by SNCF's choices concerning the commission paid to distributors, which is by nature the main source of income for these distributors.
- 4.56 However, SNCF's position in the rail sector gives it full latitude to set the level of this commission, and the short-term incentives of the historic operator seem to lead it to set a level of commission that is detrimental to the development of effective competition in the ticket distribution market. It is therefore essential that the public authorities address this issue quickly.

¹⁰² SNCF Voyageurs' turnover was €17,025 million in 2022, with an operating margin of 5.9%. An increase in costs of [∞] would require an increase in turnover of €34m to maintain the same operating margin,

The introduction and maintenance of appropriate remuneration for independent distributors is desirable from a societal point of view.
i.e. an increase of 0.2%.

Rentals

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n
Paris

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Miami
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