

DRAFT RESPONSE TO THE EUROPEAN COMMISSION ON
THE COMMISSION STAFF WORKING PAPER ON THE
RIGHTS OF PASSENGERS IN INTERNATIONAL BUS AND COACH TRANSPORT

EUROPEAN PASSENGERS' FEDERATION, October 2005.

1. The European Passengers' Federation (EPF) is an association of national organisations promoting, at the European level, the interests of passengers and sustainable mobility. We exist in order to promote the interests of passengers at the European level. The Federation is committed to improving standards on all modes of public transport in Europe. Our member organisations are based in twelve European countries, and between them they cover over 70% of the population of the enlarged European Union.
2. The EPF wholeheartedly supports the Commission's policy, reflected in its White Paper on European transport policy for 2010 (COM (2001) 370), of 'placing users at the heart of transport policy'. We also endorse the principles outlined in the Commission Communication on Services of General Interest (COM (2000) 580) which develops thinking on the basis of the Commission's commitment to focussing on the needs of users and their requirements and to stipulating those needs, and for transparency in establishing, fulfilling and enforcing those obligations.
3. It is in the context of these commitments and the progress that has already been made in developing regulations in connection with the rights and obligations of domestic and international airline passengers and prospectively of rail passengers that we are pleased to respond to the Consultation Document on the rights of passengers in international bus and coach transport. We wish to draw particular attention to the potential value of reviewing, and thereby learning from passengers' rights regulation to date. There may well be lessons to be drawn from the initial experience with the applications of the regulations relating to airline passengers. In particular, we are conscious of the way in which the efficacy of these regulations has been perceived by the media. We are also aware of issues that have been raised in the course of the related debate on the proposed regulation concerning rail passengers rights. Any regulation of bus and coach passengers' rights should draw on this experience to avoid a replication of any difficulties.
4. Need to Regulate: As a general principle we agree that equal treatment should be ensured between bus and coach operators in different Member States in terms of protecting passengers' rights. We believe creating a 'level playing field' to be in the interests of operators as well users, enabling EU operators to compete with one another more fairly on the basis of a minimum level of passenger rights throughout the EU.

5. We note that a national or local statutory framework for the protection of bus and coach passengers' rights already exists in some member states although this is inconsistent and patchy both within the EU and within member-states. For example, statutory arrangements for redress exist in parts, but not all, of the UK: these take the form of the London Transport Users' Committee in the London area, the Bus User Complaint Tribunal in Scotland and the General Consumer Council in Northern Ireland but there are no comparable statutory mechanisms to protect the interests of the majority of the UK population that lives outside these three very different areas. This is arbitrary, discriminating and confusing for bus and coach passengers, a disproportionate number who come from the most vulnerable sections of society.
6. We consider that there should be a statutory framework to ensure a minimum level of protection for passengers' rights throughout the territory of the EU and relating to all services and journeys originating or terminating in the EU. Since an increasing number of journeys involve more than one mode of collective transport we believe that inter-modality should be facilitated. This would be assisted by ensuring equality of treatment of passengers' rights, irrespective of mode.
7. Scope of Regulation: In developing this framework we consider that some over-riding principles need to be asserted:
 - a. The efficacy of any system that is designed to protect the rights and obligations of passengers depends on its transparency and the ease with which it can be understood by users and operators. We therefore favour a system for the protection of passengers' rights that is common to the various modes that may be used, except in as much as there may be issues to be addressed which are necessarily peculiar to a particular mode. A simple system is more likely to be understood by passengers and operational staff. If the system is understood, it is likely that more effective use will be made of it. Its potential value will be greater to all concerned.
 - b. It follows that systems that are consistent between different modes of travel will be more readily understood than systems that vary. For example, a passenger might find it difficult to understand why, when they are entitled to compensation for delay for two hours or more to flights within or beyond a member state of less than 1500 kilometres under Regulation 261/2004, the same should not apply to a rail or bus or coach service, whether international or not. The arrangements for the protection of the rights of passengers should be logically consistent where possible.
8. There will be cases where consistency is inapplicable. For example, where a railway undertaking is required to compensate a passenger due to an infrastructure failure, the railway undertaking may be able to recover compensation from the infrastructure manager. A bus or

coach operator is unlikely under present arrangements to be able to recover any compensation for delay from a highway authority, even if that highway authority is clearly responsible for the delay. We consider that the Commission should consider the inequity of this and the possible implications for passengers' rights and its relationship to the concept of a 'level playing field' between modes. We consider that there may be cases where the principle of force majeure properly applies. We are clear, however, that force majeure should not apply where an operator might reasonably have been expected to anticipate extended journey times and consequent delay – for example when congestion can be anticipated at peak travel periods.

9. We consider not only that the scope of passengers' rights regulation generally should apply to all modes of collective transport but that it should apply equally to domestic and international journeys. It would be difficult to explain to a passenger from Dublin who was using the scheduled coach service to Belfast in order to travel to the intermediate stop at Drogheda in the Republic of Ireland why they should not be eligible for compensation for delay in the same way as the adjacent passenger making the through journey across the Irish border all the way from Dublin to Belfast.
10. Cancellation, denied boarding and interruption of journey: Coach and bus passengers should receive compensation in the event of significant delays to the advertised journey times at a level that is comparable to that which applies to other modes. In order to avoid placing disproportionate burdens on short-distance operators compensation arrangements might be constructed to reflect the length of service involved as well as the amount of time involved in a delay, as with the arrangements relating to the rights of passengers by air. As a general principle, bus and coach passengers should not be treated as second class citizens at a time when bus and coach fares are comparable to those advertised by low-cost airlines.
11. Persons with Reduced Mobility: The Consultation Document recognises the variations that currently exist between member states in relation to persons of reduced mobility, as well as the patchiness of the attempts to establish appropriate technical requirements, as with Directive 2001/85/EC which applies to urban buses. We consider that questions of access for persons of reduced mobility need to be addressed across all modes and applications. It is difficult to understand why the rights of a passenger should vary depending on mode or on whether they are planning to make an urban or a rural journey. We believe that any regulations in this area should focus on securing desired outcomes (e.g., requiring all vehicles to be made accessible to persons of reduced mobility by a certain date) rather than specifying the technical characteristics that might secure that outcome (e.g., requiring a low floor section in a vehicle, or requiring the installation of a hoist).
12. Liability and insurance: We consider that there should be comparability of liability and insurance requirements across all modes. We do not see any justification for the establishment,

for example, of higher levels of compensation for death or injury for a passenger on an aeroplane than for one on a bus. Are the life and limbs of bus users thought to be worth less than of those using other modes?

13. Quality standards: Independently verifiable quality standards and performance monitoring procedures should be agreed between representatives of operators and users. The work in this field carried out for the Rail Market Monitoring Group (RMMS), sponsored by DG TREN, is of practical relevance. Performance and reliability monitoring should focus on the impacts on users at any point in their journey whilst taking care to deter perverse practices, such as 'padding' current operating schedules in order to ensure against penalties. We are concerned that, in the first instance, quality standards should centre on monitoring performance and that any draft regulation should be so drafted as to avoid a charge of being unreasonably bureaucratic.
14. Information provision and integrated ticketing: Bus and coach transport accounts for the largest modal share of collective transport. It is particularly significant for those groups who are generally more vulnerable and less adequately represented in our society while, as an alternative to the car, it has a significant potential contribution to make to reducing congestion and pollution. A number of member states have taken steps in recent times to facilitate the use of collective transport generally and bus and coach transport in particular, such as through the development of comprehensive internet-based transport information sites. The Commission should itself take steps to facilitate and promote the development of a universal portal and interface to enable the provision of comprehensive information about collective transport services which may be accessed on-line, from mobile phones, pdas, etc. We consider that greater access to information about the range of collective transport services that are available is likely to stimulate greater integration between services and the development of integrated ticketing products. We believe that these should be encouraged as things that make travel easier for users and facilitates competitiveness of collective transport with other modes.
15. Complaints' handling: We consider that a complaints' handling body should be established at EU level with the function of resolving matters that national complaints' mechanisms have failed to resolve, promoting best practice throughout the EU, providing stop gap resolution of complaints where no appropriate national mechanism exists, resolving differences of view between national complaints' bodies and monitoring and comparing the performance and experience of national complaints' bodies.
16. Self regulation: While we would welcome any move by the industry to raise its own standards through self-regulation, we are satisfied that passengers' rights must be protected ultimately through the creation of statutory enforcement mechanisms.