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Ihr Zeichen, Ihre Nachricht vom

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Durchwahl

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Statement on the paper rights of passengers in international bus and coach transport

The Austrian Federal Economic Chamber welcomes the opportunity given by the European Commission to submit its opinion on the issues and ideas presented in the Commission staff working paper "Rights of passengers in international bus and coach transport". Due to the recent discussion on the rights of passengers travelling by air and the ongoing negotiations of the third railway package we understand that there is also a need to figure out the reasons for the lack of passenger rights in bus transport and accordingly the consequences of the introduction of them. Thus, the Austrian Federal Economic Chamber points out the following critical comments on the effect of the implementation of rights of passengers in bus transport for the Austrian transport sector.

I. Generally:

In local and short distance traffic, more exactly in field of public passenger carriage, more than 50% of all passengers in Austria decide for the bus as means of transport. Especially in the suburbs and the urban outskirts and especially on the countryside the bus is the most supportive means of transport. Standard transport buses provide for safe, reliable transport to working places, schools, for shopping or leisure.

For holiday or vacation travels more than 10 million passengers per year use the bus, which poses a fixed factor among the important means of transport such as railway transport, air transport and car transport.

By choosing the bus the traveller chooses a high tech means of transport, complete service, extensive comfort, qualified, well trained drivers and relaxed travelling.

Place of birth of the call for more rights for passengers, which is becoming louder and louder - this is a well known fact - is the air transport, and since recently the railway transport, which for years has been facing delays and cancellations.

In most of these cases, even here the responsibility, risk or influence sphere of the traffic and transport sector is extended.

Traffic with buses has anyway been excluded from these risks ever since. The reasons are the following:

Bus entrepreneurs normally conquer the market very closely to the end consumer. Day by day they remain in direct contact with the customer. Decisions are made quickly. Proposals for improvement, which are carried towards them, are examined as to their feasibility within short time and implemented as far as reasonable.

Bus entrepreneurs thus have a high local contingency, restriction and obligation. They make a high personal and financial effort and investment and therefore are under permanent pressure for success. An entrepreneur is liable by his name, is identifiable and faces responsibility for wrong decisions personally - in the case of incompetence he neither has claims for pension payments or settlements on dismissal (as most employees do). Mistakes simply lead to exit from the market. The street bound traffic is not comparable to rail especially because of the possibilities of traffic jams or the road blockings in street traffic.

II. Concerning the questionnaire / Questions of the EU-Commission

1. The need to regulate (questions 1 and 2):

The lack of EU-legislation in the field of passenger rights in standard and travel bus traffic does not mean that no passenger rights exist in the field of bus travel traffic.

Bus entrepreneurs as of today already grant their passengers extensive rights, which are transfixed in EU-working papers. Herein especially rules for barrier free mobility, quality standards concerning vehicles and service, complaint and information management as well as alternatives for compensation - all these on a voluntary basis - are to be named. Other rights on the other hand are already defined by EU-legislation, respectively by internal treaties as well as by national legislation. EU rules for vehicle obligatory insurance, insurances for accidents or luggage exist.

Beyond that as of today the passenger rights in Austria are already governed by extensive provisions in laws, as the General Civil Code and by the law of travel contracts, by the Occasional Traffic and by the Motor Vehicle Lines Law and by general conditions and terms for business.

Thus we see no reason to provoke additional binding EU-rules. This would, based on our experiences, lead to unnecessary additional costs for entrepreneurs, whereas for the passengers no added value would be created. Reason for this is the market, which typically is closely confined in regional aspects in the bus sector differing from railway or airplane. Passengers know their service providers in town or settlement area very exactly and well and in most cases have a direct personal contact to the local bus companies anyway. Therefore incentives for intensifying initiatives from the sides of industry and bus companies should take place. By supporting voluntary actions the ideas and potential of the companies in order to improve passenger rights can be supported individually, market and demand orientated.

2. Scope of regulation (questions 3 and 4):

As the trade association has already explained, there is no necessity for additional regulation. It is irrelevant, whether cross border or national traffic services/standard or occasional traffics are concerned.

3. Liability schemes (questions 5 to 13):

The legal standards for obligatory insurance are as high in the most European member states, that the insurers refuse compensation right away from the beginning in some cases, respectively offer insurance contracts only at unacceptable conditions and costs.

Although the UNECECVR treaty offers the possibility to limit liability to € 300.000,- in case of accident or death and to € 2.400,- in the case of loss of package, only the Czech republic, Slovak republic and Latvia have ratified the treaty as of today. The other EU-member states have refused to ratify since their national legislation demands higher standards.

The motor vehicle civil liability insurance which is mandatory in Austria and the special mandatory insurance for tour operators against personal insurance and property damages already cover damages to the own motor vehicle or to the "opponent's" vehicle. This all applies in the events of death or accidents of passengers and other participants in traffic. Since bus companies in the travel sector have to cover damages to packages in Austria as well in case of negligence there are extensive possibilities of insuring package, which are made use of by the companies. The passenger rights are consequently respected also in this area. The question of jurisdiction has been clarified sufficiently and thus need not be changed.

4. Cancellation, denied boarding and interruption of a journey (questions 14 to 15):

Overbooking and denied boarding of passengers respectively insufficient seat capacities are phenomena, which opposite to the railway and air sector, do not exist in travel bus traffic. Should there be capacity shortages, flexible means to utilise additional vehicles exist. Further it is common to organize replacement vehicles in the case of operation of delays or interruptions. This is done successfully for years in cooperation with the industry and trade unions on national and international bases.

5. Significant delays (questions 16 to 18):

Significant delays in street bound traffic are in most cases beyond the influence sphere of the traffic companies. Traffic jams, detours, road blockings and waiting terms on the borders are the most common reasons for delays. Given this background such delays should not in principle lead to a legal liability of the company. Herein the street bound traffic nevertheless differs significantly from the railway, respectively air traffic in many cases. Compensation is granted on a voluntary basis. Reason for this is the high priority of customer satisfaction. The introductions of the EU wide obligatory compensation payment regulations for delays are declined by the transport and traffic division of the Federal Economic Chamber of Commerce of Austria expressly.

6. Persons with reduced mobility (questions 19 to 27):

In the area of barrier free access a clear distinction between standard and occasional traffic has to be made. For standard traffic the EU regulation 2001/85/EG provides for barrier free access to all buses in short distance traffic. By projects such as coast 349, possibilities of barrier free access also for vehicles of classes two and three (overland and travel) should be analysed also upon participation of the member states. It is pointed out, that in the area of occasional traffic already a high number of companies exist, which are specialised in the transportation of mobility impaired persons and thereby have conquered a market niche for them. Already today they possess extensive know-how which ranges from training of employees to equipment of busses. These companies meet the needs of mobility impaired people ideally. By introducing obligatory equipment for travel buses adapted to mobility impaired people's needs as well as other measures mentioned in the directive 2001/85/EG (4 seats adapted to mobility impaired people, room for guide dogs, lifting ramps to facilitate the entrance and the exit), no guarantee for a travel which is indeed operated adequately for handicapped people is created, since more

than specially equipped buses is necessary therefore. The needs of this group of persons can in many cases only be guaranteed by intensive care. This does not only concern transport but any other service in connection with travel.

7. Quality standards questions (28 to 30):

The bus trade sector is distinguished by traditionally very high quality standards. Bus entrepreneurs and the industry are always concerned about further optimising the quality of their service as well as of their vehicles. The customers are free to choose which quality standard they would like to book. In principal the market offers a high number of possibilities and consequently serves any expectations of customers. This applies for instance for equipment for the buses (seat intervals, toilet, air condition, board service, hotel standard, packages and door to door service, etc.). Based on our experience demand and supply regulate quality standards in the Austrian street bound traffic given the existing competition structures. There is no need for a Europe wide legal determination.

8. Information obligations (questions 31 to 35):

Modern means of communication as the internet already today facilitate extensive information for customers in a quick and comfortable way. The closeness of the bus entrepreneurs to the market already today facilitates direct contact to the entrepreneurs by telephone or personally.

9. Complaint handling (question 36 to 46):

In bus companies in principle a clear and simple structure for complaint handling exists. Based on existing competition structures (more competitors in one location) it is in the interest of each company to intend a company policy based on customer satisfaction and fair dealing ("Kulanz"). For these reasons the Transport and Traffic Division of the Federal and Economic Chamber of Austria refuse the plan of implementing an EU wide regulation as not target orientated. A one stop shop would mean creating a bureaucratic hydrocephalus which leads to unnecessary costs and to a prolongation in assessing the complaints of customers. The short ways for complaints are of essential advantage for the customers as of today, which is highly estimated by the same. An EU wide regulation would immensely deteriorate the existing special system, thus such is declined by the Transport and Traffic Division. An institution for settlement of possible conflicts out of court is consequently not necessary. If at all, such an institution would only be rational on a regional or national level.

10. Self regulation (questions 47 to 48):

The Transport and Traffic Division would welcome support of voluntary initiatives of companies by the EU-commission. Subsidies of financial nature (bus subsidies awards for special handling of complaints and customer friendliness) are only examples. A special perspective should be held on creating more convenient frame structures such as lower costs. Especially in the field of transportation of mobility impaired persons it is essential to have an appropriate infrastructure (train stations, bus stops, hotels, ticket machines, ecc.) at hand. Bus entrepreneurs cannot provide for these since this is solely the duty of the state. Passing these problems neither to the bus entrepreneurs is target orientated nor in proportion to the problem. Improvement of passenger rights can accord our opinion only be achieved by voluntary and constructive common action of all parties involved.

11. Integrated ticketing (question 49):

Inclusion of travel bus services in integrated ticket systems can only be achieved by multi or bilateral contracts on a voluntary basis. Only in such way regional differences can be maintained and markets be conquered in rational way. Regulations for liability between parties of contracts can as well only be agreed upon by contract, since also in such a way the special character of each travel mode can be considered and treated adequately.

III. Conclusion

For the mentioned reasons resulting from structural facts of the Austrian bus trade sector (small and middle sized companies) the Federal Economic Chamber of Austria declines further regulations on an EU basis.

With best regards

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Head of Department