

CONSULTATION PAPER

REVIEW OF THE INTERNAL MARKET IN ROAD FREIGHT TRANSPORT

The current EU policies and legislation

The White Paper on Transport¹ presented by the Commission on 28 March 2011 called for additional actions to further integrate the internal road freight transport market. The Commission's objective is to create an economically efficient, environmentally sustainable and socially equitable internal market that ensures fair competition between transport operators, delivers high quality services to shippers, provides quality jobs for transport workers and minimises the road haulage sector's environmental and climate footprint. The White Paper recognises:

- that market opening needs to go hand in hand with measures to ensure a level playing field, quality jobs, working conditions and environmentally sustainable transport;
- that human resources are a particularly crucial component of any high quality transport system;
- the need to align the competitiveness and the social agenda, building on social dialogue and promoting social progress in the sector;
- technological innovation together with the related social, business and organisational innovations can help the transition to a more efficient and sustainable European transport system.

The most recent change in the relevant EU legislation took place in December 2009 when new regulations modernising the rules governing road transport were adopted, including Regulation (EC) No 1071/2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and Regulation (EC) No 1072/2009 on common rules for access to the international road haulage market. Regulation 1072/2009 also changed the rules applicable to cabotage operations. The objective was to eliminate the uncertainties associated with the possible differing national interpretations of the applicable cabotage rules.

The EU has also harmonised the social rules, in particular the driving times and rest periods through Regulation (EC) 561/2006, enforcement through Regulation (EC) 3821/85 and Directive 2006/22/EC and the technical, environmental and safety standards related to the vehicles. Attempts have been made at the harmonisation of the relevant fiscal conditions as well. A framework for charging trucks for the use of infrastructures has also been put in place (Directive 1999/62/EC, the so-called Eurovignette Directive).

Under Regulation 1072/2009 the Commission is bound to draw up a report on the state of the Community road transport market by the end of 2013 assessing whether harmonisation of the

¹ Roadmap to a Single European Transport Area - Towards a competitive and resource efficient transport system.

Available on http://ec.europa.eu/transport/strategies/2011_white_paper_en.htm

rules applicable to the road transport market has progressed to such an extent that the further opening of domestic road transport markets, including cabotage, could be envisaged.

High Level Group for the Road Haulage Market

As a consequence of the Commission's reporting obligation, in June 2011 Siim Kallas, Vice-President of the European Commission and Commissioner responsible for transport set up a High Level Group composed of independent scientific experts to assess the state of the EU road haulage market and make published recommendations about what course of actions should be pursued to further integrate the market.

Scope of the questionnaire

The aim of the present consultation exercise is to collect the views of the stakeholders as part of the enquiries of the High Level Group. The Commission will take into consideration both the recommendations of the High Level Group and the feedback received from stakeholders in this initial consultation exercise when deciding how to proceed with the revision of EU legislation.

The questionnaire addresses issues related to the quality of road transport, new technologies, social issues and enforcement of rules, road user charges and driving restrictions and cabotage as they all form integral and interrelated parts of the internal market for road freight transport.

How to reply to this consultation

Stakeholders may reply to this consultation via the Commission's on-line interactive policy-making tool or by submitting their replies either by e-mail or mail to the addresses indicated below. Responses submitted by any of these means will be taken into consideration but stakeholders are encouraged to fill in the questionnaire on-line as it will facilitate the processing of the replies. Contributions are welcome from citizens, organisations and public authorities.

You are strongly advised to prepare your contribution in advance before filling-in the questionnaire online. We recommend you download the PDF file of the questionnaire, to allow you to draft your answers to the open text questions carefully. After preparing all your answers, please open the online questionnaire and fill it out.

Please note that the on-line version of the questionnaire will go live before the end of August 2011. Respondents will be able to access it through the European Commission's Interactive Policy Making website at:

<http://ec.europa.eu/yourvoice/ipm/forms/html/index.html>

Both a Word and a PDF version of this consultation document can be downloaded from the following website:

http://ec.europa.eu/transport/road/consultations/index_en.htm

Respondents can send an electronic copy of their replies to the following e-mail address:

MOVE-D3-CONSULTATION-TRANSPORTS@ec.europa.eu

and/or respondents can send a paper copy of their replies to the following postal address:

European Commission

Directorate-General for Mobility and Transport

Unit D3 – Road transport

B – 1049 Brussels

Please note that this document has been drafted by the High Level Group for information and consultation purposes only. It has not been adopted or in any way approved by the European Commission and should not be regarded as representative of the views of Commission staff. It does not in any way prejudice, or constitute the announcement of, any position on the part of the Commission on the issues covered.

The European Commission does not guarantee the accuracy of the information provided, nor does it accept responsibility for any use made thereof.

The contributions received from stakeholders will be published on the Commission's website, unless requested otherwise by their authors. A consent box is provided at the end of the questionnaire.

Consultation period

In order to meet the High Level Group's tight reporting schedule, questionnaires should be returned by **30th September 2011** or preferably sooner. Nevertheless, questionnaires that are returned before 31 October 2011 will still be taken into consideration

Questionnaire

I. ABOUT YOU

To help us analyse the answers to this consultation, please provide the following information about you or your organisation.

I.1. Question:

In what capacity are you completing this questionnaire?

Answer (please tick one):

- as a citizen
- private sector enterprise
- industry association or non-governmental organisation (NGO)
- public authority

I.2. Question:

Please indicate if your organisation is registered in the Transparency Register of the European Commission?

http://europa.eu/transparency-register/index_en.htm

Answer (please tick as appropriate):

- Yes
- No

If yes, please indicate the identification number

Answer (free text):

I.3. Question:

What is the name of the organisation or authority?

Landesverband Verkehrsgewerbe Saarland (LVS) e.V. – Fachvereinigung Güterkraftverkehr

I.4. Question:

Please provide details of the activities of your organisation. If there are multiple activities (e.g. haulage, freight forwarding) could you please indicate the relative importance of each?

Answer (please tick as appropriate):

- Road haulage**
- Freight forwarding**
- Other transport activity (please specify)**
- Other economic activity (please specify)**

Answer (free text):

Please note that in the cause of transparency if respondents do not provide the above details about their organisations, then under Commission rules their responses will be recorded as responses of individuals.

II. QUALITY IN THE ROAD HAULAGE SECTOR

Economic efficiency, environmental sustainability and social fairness in the road freight transport sector are dependent on its quality.

Quality must be approached both from the levels of quality aspects and the availability of information about the actual quality levels (i.e. market transparency). Quality can relate, for example, to the service being offered to shippers (reliability, flexibility, security etc.), safety and environmental performance and working conditions.

Depending on the aspects, quality levels and transparency can be addressed by self regulation and/or regulations.

II.1. Question:

Which aspects of quality in the road haulage sector do you think should be improved?

Answer (please tick as appropriate, you can select more than one answer):

- Economic efficiency**
- Reliability**
- Flexibility**
- Safety**
- Security**
- Environmental performance**
- Social fairness**

Other (please specify below)

Please specify Other:

- *uniform driving restrictions at weekends*
- *uniform control standards as far as the evaluation of tachographs is concerned*
- *driver assistance systems should have been introduced at some earlier time. They must not be permanently switched off*
- *Promoting the use of alternative fuels, such as hydrogen, for use in commercial vehicles*
- *Real co-modality, no politically-motivated favouring/discrimination of certain modes of transport*

II.2. Question:

Do you think that different quality aspects and different quality levels should apply in the cases of domestic transport, international transport and cabotage or other transport segments?

Answer (please tick as appropriate):

Yes

No

If yes, please specify which quality aspects and levels should be applied in each of these forms of transport?

The quality level in road transport is determined by the markets. As a principle, it can be said that quality is not to be regarded only in terms of price and market performance but also in terms of social and safety dimensions.

II.3. Question:

In order to improve transparency should there be recognised differentiated (i.e. higher and lower) levels of quality for each of the following categories: freight forwarders, hauliers and drivers?

Answer (please tick as appropriate):

Yes

No

If yes, please specify which quality aspects and levels should be applied for each of these actors?

The overall level of quality is a function of the quality standards observed at each step along the logistics chain. All actors are expected to practice a holistic quality management system. Thus, the freight forwarder/principal for example cannot be relieved of these responsibilities as far as observing driving and rest time regulations are concerned if he employs sub-contractors.

II.4. Question:

If you answered yes to questions II.2 and II.3 then should the different aspects and levels of quality be implemented through:

Answer (please tick as appropriate):

- self-regulation and industry standards?
- legislation?
- a combination of the above two approaches?

For each aspect of quality that you named above please specify below.

Even though the reply to the question is in the negative, we think that a combination of both instruments of regulation makes sense.

An oligopolization of cargo space brokerage does not make sense and runs counter to the real-life business of electronic freight exchanges. Besides that, shippers must be able to commission road hauliers without having to use a freight forwarder as a middleman. Instead of qualitative market access barriers for freight forwarders/principals, joint responsibility for the proper processing of the order should be introduced (see paragraph III)

II.5. Question:

Since there are rules setting out qualitative criteria applicable to hauliers and drivers, should there also be qualitative criteria for freight forwarders?

Answer (please tick as appropriate):

- Yes
- No

If yes, what should be the criteria for freight forwarders?

Answer (free text):

If no, do you consider that current rules relating to hauliers should be modified to take account of situations where the haulage operations of an individual company are less important than the freight forwarding and subcontracting operations?

Answer (please tick as appropriate):

- Yes
 No

If yes, in what way?

Answer (free text):

Question not clear

II.6. Question:

Do you consider that innovation and its deployment are currently inhibited in the road haulage sector?

Answer (please tick as appropriate):

- Yes
 No

If yes, what do you consider the major problems and what can be done to overcome them?

Market dynamics and the highly specialized offer for individual shippers in all sectors of industry and commerce prove this. Financing problems in regard to environmental innovations have to be faced and are exacerbated by the environmental and transport policy of the EU. Thus, the charging of external costs deprives the sector of billions of euros without being returned mandatorily and for the intended purpose to mitigate environmental damage or to be used for innovation programs in order to make the sector more environmentally orientated.

III. SOCIAL ISSUES AND ENFORCEMENT OF ROAD TRANSPORT RULES

In order to maintain an efficient road transport system, jobs in the sector must remain attractive which implies the rewarding of higher qualifications and improved working conditions.

Moreover, fair competition and a level playing field for operators require more uniform national enforcement policies, of which dissuasive, effective and proportionate sanctions constitute an important element. In addition, all the actors throughout the transport chain must be committed to compliance with the rules.

III.1. Question:

Do you consider that there is a shortage of drivers in the road freight transport sector?

Answer (please tick as appropriate):

Yes

No

If yes, what do you think are the main reasons for the shortage of drivers?

The main reasons for the shortage of drivers are the demographic development and the not very attractive employment conditions of drivers. In addition to that, the control practice of authorities, parking lot situations during a stop en route and the chaotic situation at the ramps are aspects that discourage young applicants to choose this profession or to practice it their entire life.

If yes, what actions do you think should be taken to improve the situation?

The working conditions and the social environment during stops en route have to be improved. The conditions at the loading and unloading ramps which are in some cases really inhuman have to be effectively removed by means of legal and pragmatic rules to be applied by all the parties involved, i.e. by imposing binding standards for loading and unloading times that have to be observed by the principals, provision of facilities for the drivers during the waiting times etc.

III.2. Question:

Do you think that certain jobs should be reserved for drivers with higher qualifications?

Answer (please tick as appropriate):

Yes

No

If yes, which jobs?

Transport of dangerous goods, heavy and large volume transports, animal transports, long vehicles corresponding to the European Modular Components (EMC).

III.3. Question:

Do you consider that enforcement practices are sufficiently harmonised across the EU?

Answer (please tick as appropriate):

Yes

No

If no, what are the main problems?

There is a lack of:

- transparent provisions concerning fines (people affected say that fines are imposed arbitrarily).*
- the vehicles of non-resident transport operators are blocked -and are thus discriminated- until the fine has been physically received.*
- non-resident companies are forced to do without legal protection due to the way how administrative fines are imposed or else they risk their vehicle being blocked for several months.*
- recognition of the CPC complying with the obligation of professional competence (community code 95) has still not been guaranteed for people working in cross-border transport.*
- administrative fines are often disproportionate compared to the quality of infringement.*

III.4. Question:

In your opinion are sanctions and the levels of penalties sufficiently harmonised?

Answer (please tick as appropriate):

Yes

No

III.5. Question:

Do you consider that sanctions and penalties function as an effective deterrent against non compliance?

Answer (please tick as appropriate):

Yes

No

III.6. Question:

What are your recommendations to improve the current situation in terms of enforcement practices, sanctions and levels of penalties?

It is of vital importance that fines as well as the interpretation of the rules on driving and rest time have to be harmonized. The amount of the fine has to be determined following the rules of subsidiarity and proportionality with full transparency and full legal protection including non-resident transport operators as well.

The deterrent effect is not attained since it is often the case that the kind and amount of the fine are unjustifiable.

III.7. Question:

Do you think that mechanisms should be introduced to engage the liability of shippers and freight forwarders for certain serious infringements by road hauliers and their drivers?

Answer (please tick as appropriate):

Yes

No

If yes, which mechanisms should be introduced and for which serious infringements?

The joint responsibility and imposing fines for infringements on not observing driving and rest time regulations, overloading, weights and dimensions, cargo securing, illegal cabotage operations and illegal employment.

IV. ROAD USER CHARGES AND DRIVING RESTRICTIONS

Non discriminatory road pricing whereby vehicle operators pay a proportionate and fair price for using the road infrastructure independent of their country of establishment and the origin and destination of their load is an important element in ensuring fair competition in the internal market. In addition, variable road charges² can provide clear price signals to better manage traffic flows and create more resource-efficient and sustainable transport by reducing congestion and the environmental impact of road transport.

Today many fragmented national charging systems and policies exist in parallel that require hauliers engaged in international transport to purchase the Eurovignette, several national vignettes and various different electronic tags and on-board units to be able to drive unhindered on Europe's tolled roads.

While road user charging can improve the use of infrastructure, at the same time there are many restrictions that limit the flexibility of hauliers to operate during certain time periods such as during the night, over the weekend and over certain holiday periods. However, technological solutions exist to successfully address the concerns that originally prompted many of these restrictions. For example, urban delivery vehicles can be specified with very low noise emissions.

IV.1. Question:

Do you consider that the multiplicity of road charging systems in the EU represent a problem for the internal road haulage market?

Answer (please tick as appropriate):

² Defined as toll in the legislation

Yes

No

If yes, what are the main problems?

Answer (please tick as appropriate):

Insufficient interoperability of electronic tolls

Differences of charging principles

Others (please specify below)

In principle, it can be said that there is transparency on the various road charging systems. What is really disturbing, are the charging systems which cause traffic congestions and additional costs in case of non-electronic payments. With electronic systems, the diversity of on-board units is to be criticised. In some cases, foreign transport operators are discriminated due to discounts for frequent driving that can in most cases only be used by resident transport operators.

IV.2. Question:

Should existing taxes or charges like the annual vehicle tax and time-based road user charges (vignettes) or other taxes be replaced by distance based road user charges?

Answer (please tick as appropriate):

Yes

No

Please explain your position. If yes, what are the reasons? If no, what are the reasons:

In principle, it can be said that charges and taxes should be in relation to the usage intensity. A change must not give rise to higher revenues for the tax authorities. Higher revenues require a special political justification.

If you answered "yes" to question IV.2, should such a variable charge include:

Answer (please tick as appropriate):

Infrastructure costs

Environmental costs like the costs of air and noise pollution

Congestion costs

Any other costs (**please specify below**)

Infrastructure costs in particular have to be charged. Environmental costs (external costs) must not lead to distortions of competition between the various modes of transport. External costs must only be charged in an overall system for all modes and users of transport. Congestion costs are internalized and do not constitute external costs. Charging them “twice” leads to wrong market signals, thus avoiding the necessary development of infrastructure since no congestion costs must be collected. Revenues and performance of the Infrastructure Manager would be inverse, i.e. the poorer the performance, the better the revenues!

IV.3. Question:

While road user charging can improve the use of infrastructure, do you agree that measures enabling a 24 hour use of infrastructure could be investigated as another means for achieving an efficient use of infrastructure?

Answer (please tick as appropriate):

Yes

No

It has not been proven that road user charging leads to a more efficient use of infrastructure. This is particularly true for transports having to use the secondary road network or that have to find other routes. In contrast, a 24 hour use of infrastructure has a rectifying effect.

V. CABOTAGE

The current EU cabotage rules entitle road hauliers to carry out up to 3 cabotage operations within 7 days after the full unloading of an international transport. One or more of these 3 operations may be carried out in other Member States (one per Member State within 3 days from the unladen entry into the territory of that Member State).

While giving more flexibility for international transport than previous rules, the current rules were conceived as a transitional step towards a more integrated internal market. They do not differentiate according to any quality criteria related to the operator, the driver or the vehicle contrary to existing schemes that promote higher quality transport (such as the ECMT licensing³ system which rewards operators using greener and safer vehicles with up to 10 times more licences). Moreover questions as to the proper enforcement of the current rules may arise.

V.1. Question:

Has the change in cabotage rules introduced in May 2010 been valuable to you?

³ ECMT licences are multilateral licences for the international carriage of goods by road for hire or reward by transport undertakings established in an OECD/ITF member country.

Answer (please tick as appropriate):

Yes

No

If no, please explain why.

The practical situation in Germany has not essentially changed. However, unjustified barriers related to cabotage operations have been removed or limited in some countries. In principle, it can be said that cabotage operations have to be defined in the context of freedom to provide services without overturning the right of establishment. That's why, we reject fully regulated cabotage operations.

V.2. Question:

Do you think that the controls aimed at ensuring compliance with the current cabotage rules are effective?

Answer (please tick as appropriate):

Yes

No

Cabotage operations cannot be effectively controlled by means of roadside checks and can be classified as a border-crossing transport by presenting CMR notes at any time. There is no provision for efficient controls with the principals.

V.3. Question:

In your opinion do the current rules on cabotage limit the flexibility of hauliers and hence their efficiency?

Answer (please tick as appropriate):

Yes

No

V.4. Question:

If you answered "yes" to the above question, then what changes should be made to the current cabotage rules in order to further the use of cabotage? You may select more than one answer.

Answer (please tick as appropriate):

Remove the link between international transport and cabotage

- Remove the need for the completion of the international transport operation (full unloading) before the cabotage operations can start
- Increase the limit of seven days within which the cabotage operations have to be carried out
- Increase the maximum number of cabotage operations (3) that can be carried out within the 7 day period
- Increase the limit of one cabotage operation that can be carried out in countries other than the one where the international transport operation was completed
- Increase the limit of 3 days to carry out the permitted cabotage operation after the unladen entry into a Member State
- Other. **Please explain below**

Limitations of cabotage operations as temporary services are indispensable for ensuring an effective functioning of the national transport markets.

V.5. Question:

As an alternative to the current cabotage rules do you think that the entitlement for hauliers to carry out cabotage could be determined as a maximum percentage of their total annual transport performance?

Answer (please tick as appropriate):

- Yes
- No

V.6. Question:

As an additional or alternative criterion, should vehicle, driver and operator quality be a factor in cabotage rules?

Answer (please tick as appropriate):

- Yes
- No

If yes, which aspects of quality for the vehicles, drivers and operators should be considered? Please select as appropriate. You may select more than one option.

Vehicle

- Use only vehicles that meet the latest applicable EURO standard

- Install satellite positioning (e.g. GPS, EGNOS, later Galileo) units specifically designed for trucks in their vehicle to prevent the use of roads that are unsuitable for heavy goods vehicles
- Install tracking and tracing functionality into their vehicles to allow easier enforcement and compliance monitoring by control authorities
- Install (when available) integrated Intelligent Transport System (ITS) applications
- Other criteria (**please specify below**)

In order to ensure the freedom to choose an occupation and the right to engage in work within the common market, quality requirements must be comparable to those of the EU licence. It has to be strictly differentiated between the freedom to provide services and the freedom of establishment, thus preventing temporary services from causing imbalances on regional and national transport markets.

Driver

- Driver qualifications (e.g. ecodriving)
- Other criteria (**please specify below**)

Other criteria (free text):

See above

Operator

- Whether the operator signs up to a "Social Code" on the minimum pay and other relevant working conditions for their drivers
- Whether cabotage operations are carried out only during non congested time periods
- Whether the operator enters into a commitment to improve the CO2 efficiency of their transport operations by an agreed percentage
- Other criteria (**please specify below**)

Other criteria (free text):

See above

VI. OTHER QUESTIONS

VI.1. Question:

Do you have any other comments or suggestions which you consider should be taken into account during the revision of the European legislation concerning the road haulage sector?

There is no clear understanding how much bureaucracy and control the sector can bear. Medium-sized companies have to be protected from "black sheep" and this protection cannot be guaranteed by controls alone.

VI.2. Question:

Do you agree that the Commission publishes your response?

Answer (please tick as appropriate):

- Yes
- No