



European Commission
DG Tren
Rue Demot, 28
B-1049 Bruxelles
Belgium

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Sent by mail: tren-e1-consultation-transport@ec.europa.eu

Consultation paper: Access to the road transport market and to the admission to the occupation of road transport operator

Danish Bus and Coach Owners Association hereby put forward our comments on the consultation paper on revision of the community legislation on the access to the road transport market and on the admission to the occupation of the road transport operator.

General

We welcome the Commissions initiative to improve the community legislation on the road transport sector. However we find that the time limit set by the European Commission for consultation on these questions are far too short. Furthermore it has been disrupted by the summer period, which jeopardizes the thorough discussion and investigation of these vital matters. We therefore strongly suggest the creation of a public private Committee of Enquiry with the purpose of investigating in parallel and in more depth the economic and social situation in road transport and its likely future development, and to make recommendations for further actions.

Part A: Access to the road transport market

Question 1:

There are too many substantial differences in the markets for goods transport and passenger transport to merge the regulation while keeping the set of rules sufficiently transparent. The idea of merging the two sets of regulation on a national level has been examined in Denmark without any positive result.

The Commission should focus on gradual harmonization that allows a more flexible adaption and perhaps the inclusion of taxis and hire-cars.

Question 2:

It is not clear what precisely local regular services mean as opposed to international regular services.

Generally however we do not find that it would be wise to exclude local, regular services from the regulation or from the authorization regime. Buscompanies operating in Denmark are subjects to different rules of taxation depending on whether they are performing occasional services or regular services. Excluding local regular services from the regulation and authorization regimes might entail a certain amount of abuse where buscompanies will be performing "local regular services" at much lower standards when it comes to regularity, publication of stops and timetables etc. than "real" regular services. Basically our fear is that the access to more liberalized local services will be exploited to compete with occasional services but not on a level playing field.

Question 3:

We generally support the maintenance of a high level of quality and professionalism in road transport.

We do not support the introduction of a compulsory professional liability insurance which would lift responsibility from the operator rather than anything else. It should be the free choice of the operators to take out a professional liability insurance policy

The question should be further examined possibly within the framework of a Committee of Enquiry as suggested above.

Question 4

The Danish Road Safety and Transport Agency has been reviewing the criteria for random samples of companies every quarter since 1st January 2004. The review is conducted in cooperation with the police and the tax authorities. It might be difficult to fully measure the effect of the reviewing process, but it is our impression that a strengthening of the quality of the companies in the road transport sector has occurred.

We recommend an ongoing verification of the satisfactory fulfillment of criteria for admission, but through random samples so it will not become excessively complicated for the public administration and the companies.

Question 5:

No.

Question 6

A standardization of the certified copies is a necessary step to avoid confusion and prevent fraud. The idea about mentioning the license plate number is appealing for the

same reasons but will certainly cause some annoyance when vehicles are replaced. No matter the precautions taken the physical licenses will easily be faked.

We recommend the establishment of an online registration of licenseholders in order to improve enforcement and control.

Questions 7 through 9

No comments

Question 10

Danish coach companies experience great confusion with regard to the journey forms and passenger waybills – both when it comes to their proper use of the documents and when it comes to the authorities performing the inspection at the road side or at the borders.

A harmonization of the journey forms would be most welcome.

Norway, Sweden, Finland and Denmark have through multi lateral agreement abolished the use of control documents for voyages taking place within the four countries (Since 1st of January 2003). Other member states should be encouraged to do the same.

Question 11

No comments.

Question 12

The authorization regime for international regular services should be maintained since it provides controlled competition and secures the quality of the service for the benefit of the consumers. Focus in this area should be to end discrimination in favor of rail.

Question 13

In our opinion a certain amount of planning is needed to establish an international regular service. A shorter authorization processing period than 5 months is not an important issue for us.

Question 14

Yes.

Question 15

It is our impression that the authorization regime generally work relatively smoothly when it comes to administrative procedures.

Fairness and transparency shall be maintained in the authorization regime. There should be no discrimination between passenger transport by bus and coach on the one hand and rail on the other. Article 7.4.f which allows the authority to refuse an authorization if an

existing railway is affected should be deleted from the directive 684/92. It is unnecessary and obsolete.

Question 16

The markets for domestic regular services remain rather closed. Until openings generally are made it does not seem realistic to consider the authorization of urban and suburban cabotage operations.

Question 17 through 21

No comments.

Part B: Admission to the occupation of road transport operator

This section mainly addresses problems regarding the road haulage sector. While the road freight transport sector mainly deals with over capacity and its negative consequences, the passenger transport sector is mainly distorted by unfair competition from rail and air transport subsidized in different ways.

Although the road haulage sector might “take the lead” in terms of outlining different measures taken to higher the levels of standards the road transport sector as a whole should be subject to the same set of rules. We do not want to create several classes of road transport companies.

Question 1

Generally it is not our impression that higher minimum standards are needed. Most “bad apples” regard infringements of existing minimum standards and setting those even higher will not help. Reinforced control and enforcement are called for.

The same set of minimum standards should apply across all road transport professions and all categories. Differentiating the standards would lead to confusion among the companies as well as the authorities and increase the risk of non-compliance. Furthermore it should be assured that the same interpretations and enforcement practices are applied in all member states.

Question 2

No comments.

Question 3

In some areas such as special regular services, transport of children, users of wheelchairs, elderly people, patients etc. bus- and taxioperators are competing fiercely but under very different regulations and conditions. This competition also generally leads to lowering safety standards, fraudulent non payment of social security contribution and pension schemes to drivers and the use of equipment not corresponding to the current requirements.

EU-wide rules for access to the profession of taxi operators should be introduced, similar to those applicable for bus, coach and road freight transport.

Question 4

In view of the experience from The Danish Road Safety and Transport Agency (above) we recommend a continuous checking every 5 years while using option B carrying out random inspections in different areas.

Question 5

Yes. Exchanging the information electronically seems like an ideal solution.

Question 6

No comments.

Question 7

Applicants convicted of repeat offences should not be granted admission to the occupation. This will only work however if a common EU-wide interpretation and understanding of these offences is applied. The offences must be of substance and really repetitive and limited to evident and provable cases. There should be no automatic responsibility for managers as we know it from the case of EU Driving and Rest Time Rules Regulation 561/2006/EC.

Question 8

No comments.

Question 9

No comments.

Question 10

Yes. Cooperation between Danish Road Safety and Transport Agency, the tax authorities and the police on this question is already taking place.

Question 11

An evolvement in the Community legislation that allows the withdrawal of licenses in cases of repeated infringements should be accompanied by the establishment of common database or notification system that would ensure an efficient enforcement across national borders.

Question 12

In Denmark the proof of financial standing involves either a certified accountant to state the amount of capital or a bank to issue a bank guarantee. This way a third party who usually has more information about the financial state of the company in question than the central authority is involved. The controls should be made according to the principles outlined in question 4.

Question 13

If introduced, a professional liability insurance should be an optional for the transport companies. An insurance should be limited to the function of meeting the financial standing requirement equal to the way bank guarantees are used today. Additional coverage would to the detriment of the responsibility assumed by the companies themselves. The bus and coach sector are operators are subject to liability in case of personal injuries, deaths and damage to property within the ordinary EU insurance legislation. The whole area should be subject to closer scrutiny which could sensibly be undertaken within the framework of a public private Committee of Enquiry as suggested earlier.

Question 14

Any harmonization should necessarily allow some room for individual national variation regarding study program and tests. For instance the Danish program encompasses in depth education in how the public transport of passengers is organized and public tendering is taking place. It would be very difficult for future buscompanies to do business if they were not trained in theses subject. Obviously this does not prevent letting parts of the tests being harmonized leaving empty spaces for national adaption. Certification of the test and training centers sounds like a good idea.

We do not think that dispensations from the test should be given. However applicants with certain advanced diplomas could be dispensed from following the training program as proposed.

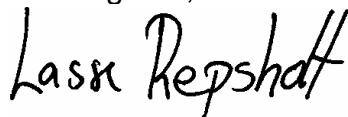
Question 15

Yes.

Question 16 and 17

No comments.

Best regards,



Lasse Repsholt
Adviser