

Access to the road transport market:

First we would like to thank the European Commission for this welcome opportunity to reply to this consultation which we find to be extremely relevant and to the point.

However, the time limits set by the European Commission for consultation on these vital matters are too short and will be disrupted by the summer period. But we will not obstruct the proposed consultation procedure and we will submit our point of view to the European Commission as requested. However, before crucial legislative steps are taken we strongly recommend to the European Commission to set up a public-private Committee of Enquiry to investigate in parallel and in depth the economic and social situation in road transport (goods) and its likely future development, and to make recommendations for further actions.

Question 1 – Is the merging of goods transport and passenger transport a real simplification? Which option is the preferred one?

A1: A merging of legislations has been investigated in Denmark in a joint effort by the Industry and the Ministry of Transport. It was concluded, that there would be no real simplification in such a merger.

We therefore recommend option 3.

Question 2 – Should local services be covered by regulation 684/92 or should they be excluded, either from the regulation or from the authorisation regime?

A2: We have no comments on this issue.

Question 3 – Should higher qualitative requirements be imposed on hauliers/carriers engaged in certain types of road transport? If so, which ones?

A3: We find that the relevant specialized areas of transportation is already sufficiently regulated (i.e. ADR, transport of live animals) and that further improvements are most efficiently implemented in these regulations.

We do, however, recommend that the Commission supports and actively participates in an effort to make the CMR-convention applicable also for national transport. It is our view that this would contribute greatly to a standardization of liabilities for road transport of goods.

Question 4 – Should Member States be required to verify whether the haulier/operator still satisfies the conditions for maintaining the license at shorter intervals on a regular basis?

A4: No, we do not believe this to be efficient as it would entail more administrative costs for the industry and the authorities.

We would, however, leave it to the national authorities to consider making more targeted random inspections.

Question 5 – Should the validity of the Community license be reduced to a shorter period of validity than 5 years? If so, to how many years should it be reduced?

A5: No. We refer to the answer to question 4.

Question 6 – Should the Regulation provide more detailed specifications for certified copies, i.e. standardize them in order to avoid confusion during an inspection? If so, what specifications or new (security) features should be introduced? Could a gradual shift to an on-line registry of the issued Community licenses be envisaged?

A6: We agree on this proposal. Since we believe, that ultimately there should be only the EU license (and the national should be phased out) we recommend that the national authorities are given a space on the EU-licenses where possible special requirements for companies established in their country could be noted.

Question 7 – Should the driver attestation be made more uniform across the Community? Should the format of the current paper based document be changed? Should it gradually be made electronically readable?

A7: As we find the driver attestation to be an unnecessary and administratively costly procedure we do not recommend any extensions or other expansive modifications to it.

In our point of view the only preferable change in this regulation would be a complete abolition of this legislation.

Question 8 – Should the current maximum period of validity of 5 years be shortened?

A8: No. We refer to the answer to question 4 and 7.

Question 9 – Are stakeholders of the opinion that the obligation to hold a driver attestation should be extended to drivers who are EU nationals?

A9: Absolutely not. We refer to the answer to question 7. Drivers are already obliged to hold numerous cards and in the future also the card proving training has been followed.

Question 10 - Should the control documents for occasional services be harmonised and the specifications be made as detailed as possible to avoid confusion during an inspection?

A10: We have no comments on this issue.

Question 11 - What is the stakeholders' opinion on the use of a uniform, Communitywide journey form in goods transport by road replacing the variety of national documents?

A11: As such a document is not mandatory in Denmark it would mean a substantial rise in the administrative burden for transport companies and drivers. We do therefore not recommend such an initiative. Should such a form be deemed viable we refer to our answer to question 3.

As for information on the journey we refer to the digital tachograph which has such information stored.

Question 12 - Should the authorisation regime for international regular passenger services be maintained, simplified or abolished?

A12: We have no comments on this issue.

Question 13 - Provided that stakeholders are in favor of maintaining the current authorization regime, is it feasible for national administrations to apply a shorter authorization processing periods?

A13: We have no comments on this issue.

Question 14 - Provided that stakeholders are in favor of maintaining the current authorization regime, are these appeals processes clear and effective?

A14: We have no comments on this issue.

Question 15 - Provided that stakeholders are in favor of maintaining the current authorization regime, are there other aspects of the regulatory regime which could be changed to simplify the administrative procedures or to otherwise improve the functioning of the authorisation regime by focusing it e.g. on safety and social requirements compliance?

A15: We have no comments on this issue.

Question 16 - Should urban and suburban cabotage operations in the course of international services be authorized? Under which conditions?

A16: We have no comments on this issue.

Question 17 - Do stakeholders perceive the varying rules as a problem? Do stakeholders consider that a clearer and more precise definition of road cabotage would be useful?

A17: In order to maintain the flexibility of transport operations and to insure a maximum efficiency in the use of assets we recommend the Interpretative Communication from the European Commission published on 12 November 2004 to be made mandatory as European guideline for whether a specific cabotage operation is legal or not.

Moreover, we recommend that it is put under consideration to introduce two forms of legal cabotage. The “classic” short-term and a longer-term form where the transports are contractually and specifically limited to a single task for example a construction project.

Finally, and referring to our answer to question 3, we recommend, that the CMR-regulation are made applicable to cabotage operations.

Question 18 - What are the stakeholders’ views on these approaches? What alternatives could be proposed for a clear and easily enforceable definition of road cabotage?

A18: We refer to the answer to question 17.

Question 19 - Which areas should be added to the list or deleted from the list contained in Art. 6 (1) of Regulation 3118/93?

A19: We do not recommend any additions to be made to the list at this time. Referring to our answer to question 17 we recommend that the CMR are made applicable to cabotage operations to avoid the discrepancies in national interpretations of the regulation.

Question 20 - What is the stakeholders' experience with the application of Directive 96/71 to cabotage transport operations? What is their opinion on exempting cabotage operations from the scope of that directive provided that cabotage is limited to a period shorter than one month?

A20: We consider the question of the application of the Directive 96/71 to cabotage operations to be an issue that needs much further consideration and discussion. We are not convinced that the Directive 96/71 can or should apply to cabotage operations, as they are in fact cabotage operations because there is no posting of the worker. That is the special conditions for road transport operations.

It is in any case extremely difficult to enforce the application of the Directive 96/71 for cabotage operations and thus it is relevant to ask if it makes sense to do it. A more constructive approach to these issues could be the idea of the IRU to use the platform of the social dialogue in EU for road transport together with the workers side to promote the fight against illegal employment.

Question 21 - Are there any other issues regarding the market access in road transport that stakeholders would like to rise? The Commission services are particularly interested in any proposal for augmenting the quality standards and optimisation of road transport operations while avoiding any additional administrative cost.

A 21: We do not find that it is possible to augment the quality standards without applying additional administrative costs.

Admission to the occupation of road transport operator:

First we should inform that the Danish transport market at the time being is categorized by a shortage of drivers and therefore capacity. On that basis we cannot agree with the Commission statement that the market is characterized by perpetual overcapacity.

We see this as a clear example of the fact, that the market to a very large degree is capable of regulating itself.

Question 1: Is there a need, and for what reasons, for higher minimum standards for admission to the occupation? If so, should they apply to all road transport professions or only to certain categories? Which ones?

A1: In order to insure global competitiveness we recommend the standards for professional competence (i.e. education and training) to be raised and harmonized.

Referring to our answer to question 3 in the market access questionnaire we should strongly advise that no diverging criteria to certain segments in the regulation for admission to the occupation are introduced, as this is already sufficiently regulated in the specialized legislations relevant for these segments.

The administrative costs by such a system would be prohibitive for the Industry and authorities both.

Question 2: Should criteria other than good reputation, financial standing and professional competence be included? If so, what should they be? For example, should criteria which prevent 'letter-box' companies from engaging in the occupation be included? If yes, how?

A2: Referring to our answer to question 1 we do not believe that such actions would be efficient in preventing letter-box companies and that the extra administrative costs it would entail for bona fide companies would outweigh any advantages.

We do not believe that the problems with letter-box companies are any better or worse in the transport industry than in other sectors. On that basis we recommend, that this very real and serious problem are dealt with via general legislation applicable to all business sectors.

Question 3: What exemptions and dispensations could be abolished?

A3: We believe that all vehicles with a maximum authorized weight of over 3.5 tonnes should be included. We also recommend the 881/92-regulation to be amended with this in mind.

Question 4: Do the requirements for admission to the occupation need to be checked more frequently? If so, should all or only some of them be checked? Which option do you prefer? If you prefer option A, what frequency do you propose?

A4: Referring to our answer to question 2 we support option B.

Question 5: Is it called for that Community legislation prevents that an undertaking which has been disqualified establishes in another Member State? If yes, what should the solution be? (See also question 10).

A5: We agree completely and would recommend a centralized, electronic registration of licenses as a solution.

Question 6: Are there any administrative burdens associated with measures considered useful in this questionnaire that could be alleviated or abandoned? If so, by what means could that be achieved?

A6: We recommend the demand for licenses to be carried in the vehicles to be abolished and the whole system of permits to be transferred to an electronic system to which the authorities – mainly the police – have online access.

It would also be preferable to have public online access to at least parts of this system so that the customers can verify a haulier's legitimacy. Such a system is implemented in Denmark and we highly recommend it.

Question 7: Should it be required that, to be deemed to be of good repute and granted admission to the occupation, an applicant must not have committed any repeat offences?

A7: This is already part of Danish law. It is also part of Danish law that the offences must be of some substance or regularity to cause a refusal. We do therefore not support a principle of "three strikes and you are out".

Question 8: Should the definitions of serious offences which constitute a barrier to admission to the profession be harmonised at European level?

A8: Yes.

Question 9: Should European legislation include a list of persons to whom the requirement of good repute applies? If your answer is yes, should the list include categories other than managers, directors and persons who have interests in the undertaking?

A9. Yes. We refer to the Danish legislation where such a list already exists.

Question 10: Should the licensing authorities be given easier access to information about judgments and penalties which bar an operator from being granted admission to the occupation?

A10. Yes. We refer to the Danish legislation where such a list already exists.

Question 11: Is the current information exchange system on infringements and sanctions sufficient? If not, what improvements do you suggest?

A11: The current European system is not sufficient. We recommend an electronic system.

Question 12: Should the methods for assessing financial standing be further harmonized? If your answer is yes, on the basis of what financial ratios should the assessment be made? What should the thresholds be? Who should evaluate them? At what intervals should this be done?

A12: We believe that a further harmonization of the assessment of financial standing would be beneficial. The actual checks and the procedures for these should be a national consideration.

We recommend targeted, random inspections as an efficient tool in this regard.

Question 13: Should the option of compulsory professional liability insurance be considered in greater depth? If your answer is yes, should the system supplement or completely replace the current system? What risks should such insurance cover and what minimum guarantees should it provide?

A13. No. We believe that this matter is better taken care of by the market.

Question 14: Is further harmonisation of examinations necessary? What dispensations could be abolished?

A14: None of the dispensations are applicable under Danish law.

Question 15: Should the holder of the certificate of competence be an employee of the company concerned and a permanent resident of the Member State in which the company is established?

A15: While we recognize the relevant interest in abolishing letter-box companies etc. we cannot recommend this option as it would limit the opportunities for bona fide companies to act efficiently in the market. This argument is in our view more and more relevant as our companies become more and more globalized.

Question 16: Do you have any other comments or suggestions which you consider should be taken into account during the revision of the European legislation on admission to the occupation of road haulage operator?

A16: We refer to our opening remarks. It has not within the time limit given by the Commission been possible to discuss this issue in depth.

Question 17: Would you like to propose other measures to avoid administrative burdens associated with measures considered useful in this questionnaire?

A17: We refer to our opening remarks. It has not within the time limit given by the Commission been possible to discuss this issue in depth.