



European Commission
Directorate-General for Energy and Transport
Rue Demot, 28
B-1049 Brussels
Belgium
Unit "Land Transport Policy"

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Dear Sirs

CONSULTATION ON ACCESS TO THE OCCUPATION OF ROAD TRANSPORT OPERATOR AND TO THE ROAD TRANSPORT MARKET

I am pleased to submit the comments of the Confederation of Passenger Transport (UK). CPT represents the operators of bus and coach transport throughout Great Britain and Northern Ireland. We have over one thousand enterprises in membership, ranging from one man businesses to the major plcs (Stagecoach, Arriva, First, Go-Ahead, National Express).

We conducted a structured survey of our membership to identify where there is consensus on the desirability of change and also the strength of feeling on the various aspects that arise.

ACCESS TO THE MARKET

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

Our members generally favoured common market access rules, particularly if this led to more effective enforcement. Our members would not favour harmonisation if it meant more bureaucracy for passenger operators (such as requiring attestations for temporary employees from outside the EU).

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?
Our members held varying views on this, and very few are involved in this market because we have only one land border.

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

We would mention in passing that the word “qualitative” in English does *not* directly mean “relating to quality”. Our members were generally opposed to this idea, on the grounds of simplicity. Whilst there is an argument for applying higher standards to passenger operators than to goods transport, it is important to maintain high operational standards in each sector for various reasons, including road safety.

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

Our members would strongly support moves to require national authorities to check that operators meet the requirements for financial standing and good repute at least once a year.

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

Members were divided on the question of the length of the validity of the licence. This is not inconsistent with our answer to question 4, given that licences could be reviewed during their period of validity.

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 licences be envisaged?

We have not been aware of problems arising from a lack of standardisation (although we have known instances of unacceptably severe enforcement on the European mainland in relation to issues such as laminated documents and certified copies printed the wrong way up on watermarked paper by our national authority). We are extremely attracted to the idea of an on-line registry, which would, eventually, obviate the problem of operators lacking a piece of paper being punished as if they were unlicensed.

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?

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

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

As passenger sector operators, these questions are not currently of concern to us.

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?

Although this measure would not create serious problems for our members, there are certain kinds of operation where a passenger list for each stage of an occasional service would be difficult to compile, giving authorities opportunities to levy unwarranted fines. A document to the level of detail of the current EU journey form should be adequate, especially as “e-borders” principles are adopted.

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?

As passenger sector operators, this question is not currently of concern to us.

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

Only a small proportion of our members operate international regular services. Their preferences were not strong. There is a feeling that the current system discourages operators from entering the market with inadequate research and preparation, protecting the public from some business failures that would otherwise occur. The option to refuse an unsubsidised coach service because of its alleged effect on a rail service should be removed. In the UK, operators have been required to give undertakings designed to sustain competition between regular services by coach and rail.

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

We think that members should have less than the current five months to decide on an authorisation before it is automatically allowed.

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

Although very few of our members become involved in these appeals, there is a perception that the mechanism is unclear.

Question 15 - Provided that stakeholders are in favour of maintaining the current authorisation 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?

Flouting safety and social rules should lead to operators losing their operator’s licence, so the question of taking these factors into account in relation to regular service authorisations should not arise.

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

On the one hand, UK operators are used to a liberalised regime for urban and suburban transport (outside London) but there are practical difficulties that would arise if left-hand-drive buses or coaches tried to run services with roadside bus stops in the UK. Our members have not felt disadvantaged by the inability to take part in this type of operation on the European mainland.

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?

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?

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

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

Question 21 - Are there any other issues regarding the market access in road transport that stakeholders would like to raise? 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.

We have no further observations on cabotage or posted workers.

ADMISSION TO THE OCCUPATION

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?

Generally speaking, more would be achieved by closer attention to observance of the existing standards than by laying down new ones.

Question 2: Should criteria other than good repute, 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?

See our remark above.

Question 3: What exemptions and dispensations could be abolished?

The abolition of the exemptions discussed in the paper would have no material effect of the UK passenger market.

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? An undertaking

which is disqualified as a result of a check should also be prevented from being able to obtain authorisation in another Member State. It is not right, for example, that an undertaking which has lost its good repute in one Member State should be able to establish itself in another. One solution could be to exchange information (e.g. electronically) in a European network of competent authorities. The competent authorities would thus notify authorisations for admission to the occupation and withdrawals of authorisations to this network.

We support annual checking of all aspects. We would support exchange of information on all aspects.

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?

Disqualification on one member state would have a severe effect on an undertakings repute when it came to apply to operate in another. We are sceptical that it would be possible to stop disqualified entities even applying for a licence after establishing themselves in another member state.

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?

Administrative burdens are an inevitable consequence of an effective licensing regime. They should diminish over time with increasing opportunities for electronic data exchange.

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? The Member States have very different concepts of what constitutes a serious offence. This prejudices the uniform application of the requirements which must be met. The Committee set up by Regulation (EC) No 3821/85 is going to harmonise the concept of serious offences as far as driving and rest periods are concerned. What is not clear is whether the concept of serious offences should be harmonised at least in the other areas covered by European legislation (weights and dimensions of vehicles, safety, working hours) as well.

It would be draconian to apply an automatic bar on an operator that had committed a particular offence more than once, particularly if it was of an administrative nature (such as forgetting to give a driver an authorised copy of the company's community licence). We have examples in the UK where firms are convicted of the same, technical, offence 100 times or more in a single court hearing because they have misinterpreted a point of law.

We do not instinctively favour standardisation of what constitutes a serious offence.

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

No. There will be too much pressure for medium-range, non-safety-related offences to be classed as serious when, in our view, they are not.

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?

We support this proposal, for the categories named.

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?

Licensing authorities should be routinely informed of these matters where they relate to licensed firms or to persons on the list referred to in question 9.

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

We would support a higher level of exchange of information on infringements.

Question 12: Should the methods for assessing financial standing be further harmonised? 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?

Most of our members support the idea that operators should have an amount equivalent to the current limit available in liquid form (i.e. to the current UK criteria) on average over a twelve month period. There could be an annual review of bank statements, guarantees and other evidence of liquid assets by the licensing authorities.

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?

We believe that the financial standing requirements should be expanded to include protection, by bonding or insurance, for customers in the event of business failure.

Members were less convinced of the case for protection for business creditors.

We do not support EU-level imposition of professional liability insurance because of the difficulty of making it compatible with divergent national contractual traditions.

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

The examination system for professional competence is, in our view, “fit for purpose”.

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?

This has been a contentious issue in the UK, but the strong consensus of our members is that there should be a professionally competent person in the employment of a licence holder (it would be acceptable for a company director or sole trader to be professionally competent person, but not an external consultant).

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?

No.

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

Licence review periods could be extended where there is evidence of consistently meeting the relevant criteria.

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