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EUROPEAN COMMISSION
 Directorate-General for Energy and Transport
 Unit E1 "Land Transport Policy"
 B - 1049 Brussels

Our ref. I.10.110.va

Brussels, the 15th February 2010

Dear Sirs,

Reference: Consultation paper on the revision of the Community legislation on the recording equipment in road transport (tachographs).

FEBETRA, the Royal Federation of Belgian Road Hauliers and Logistic Service Providers, represents more than 2000 Belgian road transport companies.

In attachment, we send you our responses to the 18 questions of the consultation paper.

We hope that our considerations will be taken into account while reviewing the legislation on tachographs.

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Sincerely yours,

Philippe DEGRAEF
 Director



EUROPEAN COMMISSION CONSULTATION PAPER ON THE REVISION OF THE COMMUNITY LEGISLATION ON THE RECORDING EQUIPMENT IN ROAD TRANSPORT (TACHOGRAPHS)

INTRODUCTION

FEBETRA, the Royal Federation of Belgian Road Hauliers and Logistic Service Providers, represents more than 2000 road transport companies and speaks for operators of trucks, from large transport companies to driver-owners.

FEBETRA represents the sector in all national bodies that make decisions affecting road transport and through our international organisation IRU, we also intervene in international decision bodies.

By working with the highest professional standards, we strive to improve the situation of the Belgian road hauliers while also helping to improve the road safety and environmental performance of road transport.

In the interest of road safety and fair competition between transport operators, FEBETRA fully supports the introduction of the digital tachograph.

However, FEBETRA also insists on the introduction of new recording equipment that:

- facilitates the integration and voluntary uptake of the most modern technologies onto a common platform;
- eases the administrative burden on companies by enhancing its performance;
- enables innovation and constant improvement by tachograph manufacturers.

These and other considerations will be further elaborated in this response.

QUESTIONS EXTRACTED FROM EC CONSULTATION PAPER

Question 1 – Is it important that equipment of different manufacturers functions in exactly the same way? Or should legislation focus on essential requirements and give manufacturers more freedom to develop solutions and improve the equipment?

It should be possible to follow the latest technological developments and to correct faults without recourse to a legislative process for changing the technical specifications, who takes too much time. There should be sufficient possibilities for manufacturers to innovate and to keep improving the performance of the device.

However, this flexibility should be carefully balanced with the need to maintain a similarity between different models. This is important for drivers who use different vehicles with different equipments. Basic consistency should be held for manual entries, data download

processes, the registration of the activity of the driver and how to change it, key elements of the visual display and data outputs from the device.

Specific areas of the technical specifications where flexibility is needed and where it can be introduced without jeopardising basic consistency as mentioned above, should be identified.

Question 2 – Should the legislation on the tachograph already foresee the integration of the digital tachograph into an open in-vehicle platform? If so, what other regulatory applications should be integrated in this platform (e.g. e-toll, recorder for accident investigation, e-call, speed control) and why? Would it be interesting for fleet management or other applications related to safety or security of transport, or to law enforcement, to have a real-time 'tracking and tracing' function?

FEBETRA is in favour of the development of an open in-vehicle platform which would facilitate the integration of varied ITS applications in order to save costs for installing multiple devices.

However, the installation of such a new open in-vehicle platform should be on a voluntary basis, road hauliers should have the freedom of choice when selecting the equipment of the vehicle. It should not be treated as a means to introduce new mandatory requirements.

For all parties concerning a transport (driver, haulier, client and the enforcement bodies), a real-time tracking and tracing system would offer more guarantees for a safe and secure transport. However, once again, we would like to stress that the use of such a system can't be mandatory.

Question 3 – Should remote download of the digital tachograph be encouraged? Is a regulatory approach deemed appropriate in order to facilitate widespread introduction?

The remote download should be encouraged however not obliged. Companies who have the means will gladly use a remote download system but small companies should not be obliged to invest in such systems. Obliging the system will only undermine the concurrence position of the small companies. For a one vehicle company where a manual download is sufficient, it would totally be unnecessary.

Question 4 – What is your practical experience? Are there any obstacles for speedy download data?

While conscious of the improvements that have already been made in download speed, FEBETRA and its members would naturally like to see a further increase in download speed.

If tachograph manufacturers identify technical obstacles, the European Commission should act on their proposals to eliminate barriers.

Question 5 – How could the equipment be changed in order to make controls more efficient? Should the mobile control of moving vehicles be envisaged in order to reduce administrative burden for industry and enforcement bodies?

FEBETRA strongly supports practical measures to reduce the time who is lost caused by road side controls while at the same time maintaining or enhancing effective enforcement.

However, we can't support the idea of mobile control of moving vehicles. Firstly, there are substantial privacy issues. On the other side, since there is still no harmonised enforcement of the regulation 561/2006, the automation of controls would produce an intolerable situation and would simply result in a massive multiplication of incorrect sanctions.

Enforcement bodies should always judge taking into account specific circumstances and most importantly the drivers own evidence. The mobile control of moving vehicles enables the correct judgement and discretion of individual enforcement officers.

Instead of improving the working conditions of the drivers, it will only amount to their feelings of stress. At this moment, truck drivers are already one of the most controlled and sanctioned professions. Adding a feeling of "big brother is watching you", their stress will only be increased.

Question 6 – Is the current security level proportional? Can and should there be other sources of motion? Could the authenticated time/speed/positioning data provided by the future European "GPS" system, Galileo, be used as a second and independent source of motion to ensure security of data?

We strongly believe that a mandatory GPS signal will not necessarily be a solution to deal with manipulations. If the will exists to fraud, the ability will almost certainly exist to manipulate or block a Galileo signal.

Question 7 – In case a vehicle is only occasionally used in the scope of Regulation (EC) no 561/2006, for example when exceeding from time to time the radius set in some exceptions, should it be possible to use different means of recording activities?

Our organisation opposes the use of other means to record activities for vehicles only occasionally used in the scope of the regulation. Why should those drivers have less administrative burden than our hauliers?

We are in favour of the principle: once you fall in the scope of the regulation, you should apply the same rules as the others. Giving those 'occasional drivers' the possibility to be creative in recording their activities manually, doesn't contribute to the road safety.

A driver who is not used to drive long distances regularly, is in our opinion more likely to be distracted / tired after a few hours of driving and therefore, they should be controlled as severely as other drivers.

Three options can be envisaged:

- **option 1:** no new generation of recording equipment should be introduced; make full interoperability with the current system of digital tachographs a strict requirement for all future developments.
- **option 2:** foresee a new generation of recording equipment, but make sure that at least driver cards (or other parts of the equipment) can be used with the current generation of digital tachographs and the new generation of recording equipment (backwards compatibility).
- **option 3:** foresee a new generation of recording equipment without any requirement on the compatibility.

Question 8 – Which option do you prefer? In case you prefer option 2: What are the most important issues for compatibility between a new generation of tachographs and the current digital tachograph, and what other parts of the equipment, apart from driver cards, should be compatible in your view?

The new generation of recording equipment should be envisaged with backwards compatibility as foreseen in option 2. Interoperability must be maintained for driver cards and also the download interface and tools, especially where these use USB port technology.

Question 9 – Should the legislation specify how new equipment has to be introduced in the field? Should retrofit be possible, mandatory or take place in case of replacement of defective equipment? What are the essential steps for the introduction of new equipment? Should type approval for tachographs fall under the general type approval scheme for vehicles?

We are in favour of the possibility to retrofit but it should not become mandatory. Companies should be able to realise a full return on their investment in equipment throughout the use of the latter during its full life cycle. If equipment fails, it should be possible to replace it with an identical unit if that is wished. Moreover, mandatory retrofit of new devices can be compromised by the fact that it may not be technically possible to fit the newest equipment into older vehicles.

Nevertheless, it should be possible to oblige the use of the new equipment on vehicles put into service for the first time (like it was foreseen for the first generation of digital tachographs).

To maintain the essential level of interoperability and consistency between devices, we believe the equipment should fall under its own dedicated type approval process with detailed specifications.

Question 10 – Should it be possible to carry out field tests before type approval is requested, while maintaining the same security standards? How should field tests be limited (geographically, number of equipments, duration of the field test, etc.)?

Road transport operators have evidently great interest in the provision of equipment who is designed and built on basis of real life field tests which would improve the performance. We hope therefore that pre-type approval field tests can be facilitated.

Manufacturers should be able to test their equipment for all types of transport: urban distribution, national distribution and transports of long distances.

The current legislation does not provide for detailed requirements in the following fields: seals, downloading equipment, control equipment, calibration tools.

The following options could be envisaged:

- **option 1:** do not change the current situation
- **option 2:** optional standardisation of this equipment through technical bodies
- **option 3:** community legislation

Question 11 – Which option do you prefer and if you prefer option 2 or 3, for which parts: seals, downloading equipment, control equipment, calibration tools, etc?

For downloading equipment, we prefer option 2. Road transport operators should be able to realise a full return on their investment in equipment but an optional standardisation of this equipment would give them the guarantee that the system they use, is of good quality.

Since there is a lack of uniform enforcement of driving and rest time rules between Member States, we insist on a type approval of the data analysis software used by control authorities to determine whether a driver has infringed the regulation. Type approval should be awarded on the basis of a products' conformity to a common understanding and interpretation, established on EU level.

Question 12 – Is the current way of updating the specifications on the tachograph satisfying? Who should be responsible for the updating of the technical requirements? What is your preferred option?

- **option 1:** Commission continues to update the technical specifications of the equipment through comitology
- **option 2:** the Regulation sets essential requirements for the equipment and a normative of technical body (e.g. CEN, CENELEC) is empowered to take care of the detailed technical specifications
- **option 3:** the Regulation sets the basic principles for the equipment and manufacturers decide on detailed technical specifications

For the periodical update of the technical specifications, it is important that a process exists that enables this to be done quickly and efficiently with the maximum possibility for all concerned stakeholders (governmental and non-governmental) to express their opinion and contribute to the outcome of that process. While not perfect, the comitology procedure that resulted in Commission Decision 1266/2009/EC has provided a good balance between these different requirements.

If the technical specifications would be left to the manufacturers, it would lead to many different kinds of equipment. For drivers who change vehicles regularly, it would become difficult to keep up with all different types.

Question 13 – Should the trustworthiness of workshops be improved? If so, how? How can conflicts of interest be avoided for workshops that are living from delivering services to individual clients but play at the same time an important role in the security of the recording equipment?

In Belgium, national requirements are foreseen to receive an approval as workshop (e.g. a manager or his partners can't be involved in activities in the road transport sector). In our opinion, the actual situation is satisfactory.

Question 14 – What kind of data should be entered manually by the driver? What kind of information should be recorded automatically by the recording equipment? Is it appropriate to record more precisely the location (via GPS or GNSS for example)?

The driver should be able to enter manually his detailed position at the beginning and the end of his working day. This would allow control officers to get a better view of the activities of a driver (e.g. did he drive 10 minutes too long to arrive at home?).

Other elements that the driver should be able to enter manually: traffic jams, extreme weather conditions, stacking in the UK (the authorities oblige truck drivers to stay in a parking area in case of strikes at the harbour, closure of the harbour due to weather conditions, ...), ... All those elements should be taken into consideration during road checks to determine if the driver should be fined or not.

Question 15 – Should the Regulation explicitly foresee the use of electronic data exchange on cards that are issued between card issuing authorities?

Our federation is a strong believer in honest competition and therefore we oppose to any possibility to fraud.

Nevertheless, we oppose to the use of electronic data exchange on cards between card issuing authorities. It would only lead to an increase in the cost of a driver card and an increase in the waiting time to receive the driver card.

A system who is resistant to all attempts to fraud doesn't exist. If the driver has the intention to fraud, he will declare to the police he has lost his card en he will ask a new one (with the official declaration of loss).

We are convinced that the very severe sanctions that exist in the different Member States in case of a driver who has two driver cards with him, guarantee that only a very limited number of drivers will try this.

Question 16 – Should the Regulation explicitly foresee warnings for the driver in order to enhance compliance with the legislation on driving times and rest periods? Should it be up to manufacturer's choice to offer such warnings as an optional tool, including additional warnings for other aspects than the continuous driving time?

There is a clear need for guidance and warnings to be given to support drivers. However, the current disharmony of interpretation and enforcement is the biggest restraint on the development of potentially very useful driver aids. Without a harmonised application of the rules, those warnings don't have an added value.

And what happens in case a driver did not get a warning but is nevertheless fined by enforcement bodies? A simple disclaimer limiting the liability of the warnings might appear but what is the added value of a warning signal when it is compromised from the beginning by admitting that it could be misleading?

Therefore, the most important aim of the Commission should be the harmonisation of interpretation and enforcement of the regulation by different Member States. Until then, the introduction of warnings will create more problems than it would resolve.

Question 17 – Do you have any other comments or suggestions which you consider should be taken into account during the revision of the European legislation on recording equipment?

We would like to repeat once again that harmonisation of the interpretation and the enforcement of both regulation 561/2006 and regulation 3821/85 should be the most important goal for the EU in this domain.

The guidance notes who have been established by the Legal Working Group of the Commission are a good start. However, drivers are confronted on regular basis with enforcement bodies who on one hand don't know of the existence of those guidance notes and on the other hand interpret the Regulation in a wrong way, even if the rules are clear. We give some examples...

Until today, we are confronted with enforcement bodies who estimate that a driver committed an infringement when he worked more than 5 hours in a row, even if his driving time was not more than 4 hours.

Regulation 3821/85 states clearly that only the code of the country where the driver begins and ends his working day should be inserted in the digital tachograph. However, several of our Belgian hauliers received fines in France because they crossed the border without changing the code of the country.

Guidance note 5 states clearly that no declaration of any form is required for a normal period of weekly rest. Why do our members have to pay fines in other countries because they don't

have a declaration for their weekly rest. Of course, we can introduce a letter of opposition for such cases but has anybody already thought how much time and administration it takes to recover that fine?

In case of road checks, the enforcement bodies should always limit their control to the previous 28 days. If they don't, there is an unequal treatment between drivers with analogue and drivers with digital tachograph. A driver with analogue tachograph can consciously leave his older record sheets at home while a driver with digital tachograph does not have that possibility.

While different national, European and international bodies aim to reduce the administrative burden for companies, the opposite measure has been taken for hauliers with the introduction of the declaration of activities.

What is the added value of this piece of paper besides a new way for enforcement bodies to claim fines? We always thought that the principle "innocent until proven guilty" was the most important right of European citizen... The introduction of the declaration of activities has only increased the risk of having to pay fines while the driver worked fully in accordance with the regulation.

Records made by the tachograph or entered by the driver should be sufficient. Therefore, we ask the deletion of the declaration of activities.

We are in favour of a reduction of the number of days that can be checked on the road: companies often need the original record sheets to determine the salary of the driver. Since the driver is obliged to show the record sheets of the day self and the 28 previous days, most drivers receive their pay check later than before. Because the salary is determined later than before, the social contributions etc. often can't be paid in time to the authorities. Companies risk to receive administrative fines for reasons they can't control. Of course, if serious infringements are established, we insist on a more detailed and larger control in the company.

Question 18 – Would you like to propose other measures to make the recording equipment more user-friendly and to improve the reliability of controls?

Stricter rules regarding adequate training and equipment of the enforcement bodies should apply.

Control officers who didn't follow a specific training about the regulation or who are not or poorly equipped, should not take it upon their self to control a truck driver.