

**Comments of**  
**DEUTSCHE POST WORLD NET**  
**on the**  
**CONSULTATION PAPER**

**Revision of the Community legislation on the access to the road transport market and on the admission to the occupation of road transport operator**

## Preamble

Deutsche Post World Net and its integrated Deutsche Post, DHL and Postbank companies offer tailored, customer-focused solutions for the management and transport of goods, information and payments through a global network combined with local expertise. Deutsche Post World Net is also the leading provider of Dialog Marketing services, with a unique portfolio of efficient outsourcing and system solutions for the mail business.

The Group generated revenue of 45 billion euros in 2005. With currently some 500,000 employees in more than 220 countries and territories Deutsche Post World Net is one of the biggest employers worldwide.

In the following Deutsche Post World Net is pleased to submit its comments and position on the European Commission's consultation on the revision on the Community legislation on the access to the road transport market and on the admission to the occupation of road transport operator, published on 9 June 2006.

### **Regarding road transport of goods, Deutsche Post World Net supports a legal framework ensuring within the EU:**

- **harmonized conditions for road transport operations,**
- **simplification of road transport operations through less paperwork and EU-wide standardization of the documents of transport; and**
- **fully liberalized market for cabotage allowing complete flexibility for cabotage operations.**

Harmonized conditions for road transport and cabotage liberalization would achieve the creation of a **single European road transport market**.

Deutsche Post World Net's vision of cabotage in a fair and competitive environment is a European e-based independent entrepreneur connected with on-line systems, which picks up freight across the EU wherever he has finished his last job.

Cabotage liberalization will contribute to increase European competitiveness by enhancing the efficiency of the supply chain at reduced costs. The industry and individual customers are, then, better served and satisfied.

Allowing trucks to load and unload anywhere in the EU is the best way to decrease the number of empty trucks on the roads and, thus, the total number of trucks. Therefore, cabotage liberalization will also contribute to reduce the impact of road transport on the environment.

## Answer to the questionnaire

### PART A

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

Given the difference between passenger transport and goods transport in terms of business models, Deutsche Post World Net advocates for keeping the **separation** between the respective applicable legislations.

The specificities of each mode of transport should be taken into account and should be reflected in the respective applicable legislation. For instance, it seems reasonable that passenger transport services require higher insurance coverage than goods transport services considering that human lives are involved.

Deutsche Post World Net would, therefore, favor the Option 2 proposed by the European Commission.

***Question 2** – Not our profession.*

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

The qualitative requirements for admittance to the occupation of road haulage operator vary greatly among the Member States. This creates room for discrimination and unfair competition between the operators of the different Member States. The negative impact on road safety is also serious.

Especially **for certain specific transport services which may require more attention (for example: transport of high value products and dangerous goods)** Deutsche Post World Net would, therefore, welcome a harmonization of the existing qualitative requirements in force in the different Member States. This harmonization process should lead to **the same minimum qualitative standards throughout the EU** but not create new and additional EU legislation, requirements beyond the existing highest standards and unreasonable costs.

**This harmonization of the qualitative requirements for the most sensitive transports should pave the way for the liberalization of cabotage operations.**

With road transport operators having to comply with the same minimum qualitative requirements for sensitive transports, there will be no longer justifications to restrict cabotage services.

***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?*

There is no evidence that more regular controls for verifying whether the conditions for the license are still satisfied will increase compliance and the reliability of the operators.

Deutsche Post World Net is, thus, satisfied with the current system of control including one compulsory control every 5 years and unannounced inspections. However, small and major operators should be treated on an **equal basis** regarding those controls.

***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?*

With reference to the answer given to question 4, Deutsche Post World Net does not see evidence, which shows that the reduction of the period of validity of the license will significantly increase the compliance of the operators with the Community license.

On the contrary, reducing the period of validity of the Community license will create more administrative costs for the reliable operators.

***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?*

In principle, Deutsche Post World Net encourages any action for the **harmonization of the conditions** applicable to road transport operators and for the **simplification of the administrative measures** in as much as that those processes are conducted and implemented in a seamless way and that they do **not create other administrative burdens and additional costs**.

In this respect, an EU-wide standardization of the form and content of the certified copies of the Community license is welcomed in order to improve the quality of the controls. A gradual shift to an on-line registry of the issued Community licenses should be encouraged.

***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?*

Standardization of driver attestation would, most likely, be rather costly in comparison with its expected positive impact.

Deutsche Post World Net does, thus, not see an economic need to standardize driver attestation.

Making driver attestation electronically readable is, then, not required.

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

With reference to the answer given to question 7, the driver attestation should remain valid for a 5-year period.

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

Deutsche Post World Net sees no reason to create a new administrative burden for EU national drivers. Such an initiative would have no positive impact other than being costly.

***Question 10** - Not our profession.*

***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?*

Deutsche Post World Net **favors, in principle, all initiatives of harmonization and simplification.**

Therefore, taking the model of the International Consignment Note (CMR), one uniform Communitywide journey form for international transport and for national transport should be adopted. This should be achieved at reasonable cost without creating new administrative burdens.

Transport of goods (international and domestic) will be also facilitated if operators would be allowed to use electronic journey forms and to fill them in themselves. In Belgium, for example, the operators must BUY their international CMR forms from the road transport associations. This situation, which engenders costly and time consuming obligation, should not be allowed any more.

*Question 12 to Question 16* - Not our profession.

*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?*

The different interpretations of the concept of “*temporary basis*” provided by Regulation 3118/93 on freight transport cabotage create confusion and uncertainty among the operators.

The indefinite condition for cabotage operations explains why **cabotage is not a reality in the EU road transport market**. Eight years after the launch of road transport liberalization in 1998, the percentage of domestic transport undertaken by cabotage remains **marginal** in all Member States.

Studies of Eurostat show that the cabotage penetration rate, i.e. the share of cabotage transport in total domestic transport, where total domestic transport is the sum of national and cabotage transport (by country in which cabotage takes place), remains very low: from **0.8% in 1999 to 1.1% in 2003** (cf. Eurostat report n° 7/2005 - Trends in road freight transport up to 2003). In 2004, the penetration rate was **over 2% only in 2 countries**; the most heavily penetrated country being Belgium at 2.9% followed by France at 2.5%. Luxembourg and Austria were third and fourth at just under 2%. Other countries where the rate was over 1% were Denmark, Germany, Sweden, the United Kingdom and Norway. For 14 Member States the figure was under 1% (cf. Eurostat report n° 8/2006 – Road freight transport 1999-2004: cabotage and transport with non-EU countries).

Divergent national rules on the time limitation period for road cabotage also lead to distortion of competition between operators.

The Interpretative Communication of 2004, which aimed to clarify the temporary nature of road cabotage for freight in the light of the case law of the Court of Justice, did not resolve the issue.

Therefore, a clear and precise definition of road cabotage applicable within all the EU is urgently required but is not sufficient.

Harmonization of the time limitation period during which cabotage is allowed is welcomed but can only be seen as the minimum to be done and not as a fully satisfactory measure.

**Road cabotage should be subject to no restrictions within the EU for EU operators:** any EU road haulage carrier having a Community license shall be entitled to operate road haulage services in another Member State without having a registered office or other establishment therein.

***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?*

**Deutsche Post World Net believes that the only way to develop cabotage operations throughout the EU is by liberalizing the market for cabotage.**

The insignificant development of cabotage in the EU since 1998 (cf. results of Eurostat's studies mentioned in question 17) finds its origin in the current restriction applicable to cabotage services, which makes them very difficult to organize while **road transport operations require flexibility and swiftness.**

Should full liberalization of cabotage not be politically acceptable, Deutsche Post World Net will deplore this and will, then, support a harmonized new definition of cabotage.

This new definition of cabotage should ease and extend as much as possible cabotage services within the EU but make impossible "*road transport tourism*" (i.e. doing cabotage in one Member State after the other without going back to the home Member State). This practice should be considered as unfair competition, which raises safety and security concerns.

In the new cabotage regime, "*road transport tourism*" should be banned but it should be possible to organize long transports with cabotage through several countries in a fixed pattern. For example, every Monday starts a transport operation from Spain via France, Belgium, Germany, Austria, Italy, France, and then back to Spain. This should not be regarded as "*tourism*".

In the two approaches proposed for a definition, the obligation of going back to and staying in the home Member State before starting a new run of cabotage services in other Member States should then be included in order to avoid “road transport tourism”.

Neither Example 1 nor Example 2 is satisfactory. Depending on its business need and on the demand of the market, an operator should be allowed to operate cabotage for long and short periods with minimum restrictions.

The demand of road transport operations is constantly evolving and becoming more and more complex. Therefore, road transport operators require a regulatory framework enabling them to **organize cabotage operations with as much as flexibility as possible in order to meet the demand of their customers.**

In the case where a restrictive definition for cabotage would be approved, a logbook should not be obligatory for consecutive transport operations following an international transport limited to 2 or 3 days as long as the journey is well documented. For longer period of cabotage, carrying a logbook could be required. Every 6 months, the logbook of each operator should be controlled.

If a logbook is required for cabotage within the EU, its form should be standardized at the EU level.

All in all, whatever the details of the definition, it is critical that the definition of cabotage is harmonized and is applied similarly within the EU. Further divergent national time limitation conditions applicable to cabotage must be prohibited.

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

Weight and dimensions of vehicles and rates and conditions governing the transport contract should be harmonized and thus, deleted from the list of Article 6(1) of Regulation 3118/93.

A harmonized VAT rate for road transport services should remain the objective to be achieved. However, considering the expected difficulties to agree rapidly on such common VAT rate, it should be decided that in the short



term the applicable VAT rate for transport services is the VAT rate of the Member State where the operator is established.

Requirements for the carriage of certain types of goods and driving times and rest periods have been harmonized and, thus, should be removed from the list concerned.

***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?*

Directive 96/71 is not applicable to merchant navy undertakings as regards seagoing personnel.

Therefore, similarly, **Directive 96/71 shall not be applicable to road haulage operators as regards road drivers.**

Social rules applicable to road drivers should not be those in force in the host Member State but those in force in the Member State, where the road haulage operator for which the driver works is established.

***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.*

In principle, Deutsche Post World Net considers that the harmonization among the EU of the conditions applicable to road transport services is crucial for improving access in road transport market.

**Harmonized conditions for road transport would enable the full liberalization of road cabotage throughout the EU.**

Only full liberalization will allow the development of road cabotage services.

Cabotage will optimize road transport operations. Road haulage operators will have more **flexibility** in the management of their fleet that will save money and time for both the operators and the customers.

National authorities have a key role to play by controlling whether the conditions of transport are adhered to and by withdrawing the Community license from fraudulent operators.

## **PART B**

**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?*

There is no particular reason for adopting higher minimum standards for admission to the occupation of road haulage operator.

**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?*

“Letter-box” companies, which are established in certain Member States for fiscal reasons and/or for escaping criminal prosecutions should be challenged. Acting as forwarders at the end of the supply chain, it is very difficult for their clients to claim damages in case the service is not properly supplied.

However, Deutsche Post World Net does not see how additional criteria could prevent “letter-box” companies from engaging in the occupation. The market should regulate the use of “letter-box” companies and, thus, should get rid of the least reliable ones.

**Question 3:** *What exemptions and dispensations could be abolished?*

In principle, Deutsche Post World Net considers exemptions and dispensations as **obstacles** to the accomplishment of a Single European Road Transport Market.

**Transportation is a fast business** which needs clear, simple and harmonized rules and not a myriad of exemptions and dispensations making this business more difficult or slower.

***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?*

Supplementing the compulsory inspections of every five years by targeted random inspections appears to be the best option (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).*

Deutsche Post World Net would encourage a measure, which would avoid non reliable operators from obtaining a Community license in any Member State. This would ensure **consistency** of the EU road transport policy.

An operator which does not meet the conditions for being granted a Community license in one Member State should, in principle, not be successful in another Member State. Tourism for getting a Community license should be discouraged.

In this respect, the 25 national authorities in charge of granting the Community license should share an **electronic database** including the operators with a Community license, the applicants for a Community license and the reasons for refusing the license in each negative case. This system should help to track the disqualified operators. By consulting an updated database, the national authorities will save time and money. However, this electronic database should not create additional financial burden for operators.

Relying on the individual (electronic) database of each national authority, it should be feasible to create a common electronic database at a reasonable cost.

The road haulage operators having a Community license should be allowed to consult the electronic database in order to verify the reliability of their sub-contractors.

***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?*

The tasks of the national authorities could be rendered easier and more time and cost effective through the creation of an electronic database for sharing information and controlling the operators and through the harmonization of the documents required for the application.

The undertakings would also benefit from the harmonization of the documents required.

In the Member States where one does not already exist, a website should be created which provides information on the application procedure for a Community license and providing the download of documents to be filled in by the applicants.

**The road transport industry expects to become a less paperwork-intensive industry.** As is the case with the air transport industry, road transport operations should take place with less and less paper and rely more on e-documents.

***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 conditions for being granted a Community license of road transport operator should not be stricter than for being granted a Community license as a maritime or air transport operator.

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

The definitions of serious offences in relation to driving and rest periods and to road and vehicle safety should be harmonized within the EU.

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

Extending the list of persons for whom a certificate of good reputation is required is not necessary and would only create additional administrative burdens.

**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?*

National authorities should be given access to information about judgments and penalties in order to verify whether an applicant has been barred from being granted a license.

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

Enhancing the cooperation between the national administrations concerned will improve the current system of information exchange without creating additional administrative burdens for operators.

**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?*

Further harmonization for the assessment of the company financial standing should not discriminate against the smallest companies, which should be able to comply with them without a major investment in time and in people.

**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?*

In principle, in order to establish fair competition among the operators on one side and to protect customers from the default of an operator on the other side,

making professional liability insurance compulsory within the EU should be encouraged.

However, the specific situation of the smallest operators should be taken into account. This professional insurance, if it is applicable to them, should not constitute an obstacle for running their business.

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

Giving that the Community license is mutually recognized within the EU, improving harmonization of the examination for being granted such a license is welcomed. This measure would also enhance the confidence within the undertakings.

***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?*

The conditions applicable to the certificate of competence should not create obstacles to accessing the road transport market and thereby increase the difficulty of providing road transport services.

***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?*

No