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IRU POSITION ON THE EUROPEAN COMMISSION PROPOSAL FOR A REGULATION ON ACCESS TO THE ROAD HAULAGE MARKET

IRU Position on the new European Commission proposal for a Regulation on common rules for access to the international road haulage market – COM(2007)265, adopted by the IRU Goods Transport Liaison Committee with the EU.

I. ANALYSIS

1. General

- On 23 May 2007, the European Commission adopted two new proposals for regulations on common rules for access to the international road haulage market and to the market for bus and coach services in the EU. Both proposals combine and modify the rules which are currently found in several different EU legal acts (four for road haulage, three for bus and coach services) on market access.
- The main issues which are raised in the new proposals are the further harmonisation of the Community licences and their true certified copies, the introduction of a new definition for road freight cabotage, the authorisation procedure for international bus and coach regular lines, the simplification of control documents for occasional services by bus and coach and the withdrawal of the market crisis mechanism. The text of the new proposal can be found at:
http://ec.europa.eu/transport/road/legislation/doc/com_2007_265_en.pdf.
- The market access rules on road goods and bus and coach transport have been kept in two separate regulations. Moreover, the market access rules have been consolidated in two single texts – one for road haulage and one for bus and coach services - which improves clarity and transparency.
- Further harmonisation of the rules of the bilateral agreements will also lead to more transparency and could facilitate transport operations to and from third countries.

2. Access to the international market

- The European Commission Proposal for a regulation on common rules for access to the road haulage market is a step forward in further simplifying and harmonizing market access rules and their implementation across the EU.
- The models of the Community licence and the certified true copies will be standardised and the use of true certified copies on temporary replacement vehicles will be facilitated.

This will lead to more clarity and certainty in enforcement and reduce the number of unjustified penalties for operators.

- The introduction of an electronic register, including for licences, will improve the exchange of information between Member States and lead to better enforcement.
- The driver attestation is also standardised and its scope remains limited to the most sensitive group of drivers: non-EU nationals. However, harmonisation remains limited to the EU framework.
- Cooperation between the relevant competent authorities in the EU Member States will be improved. Enforcement may be facilitated and better targeted.

3. Cabotage

- A new cabotage definition is created. The impact of cabotage varies from Member State to Member State and greatly depends on the cabotage activities of operators of a certain nationality as well as on the degree of penetration of a host Member State. Therefore operators from different nationalities have a variety of views on cabotage also depending on whether the scope of their activities is the national or international market.
- The proposal's explanatory memorandum identifies that the aim is to create more clarity about the "temporary" nature of cabotage, to facilitate enforcement by checking information on the dates of loading and unloading available on a consignment letter such as the CMR consignment note and improve the efficiency of operations through the reduction of the number of empty runs. The new cabotage definition may be checked against these criteria
- Furthermore, two important issues have been omitted. These are a respect of the freedom to provide services and the free movement of goods as set out in the Treaty, and the need to facilitate the participation of road freight transport in "co-modality", as set out in the Mid-term review of the 2001 White Paper. These are two further criteria which may be used to check the new cabotage definition.
- In limiting cabotage to three operations within a seven-day period following entry into the host country with a load, the EU Commission restricts cabotage. In addition, the proposal does not provide sound justification for allowing only three operations during a seven day period and not some other restriction. It also does not justify why cabotage can only start once the goods carried in the course the incoming international carriage have been delivered. In fact cabotage is not only restricted in time but also operationally. It is questionable whether this is compatible with the freedom to provide services and the free movement of goods as laid down in the Treaty.
- The extent to which the new definition will really facilitate enforcement remains to be seen. Practical experience with applying rules implemented within the ECMT multilateral quota system of goods transport licences, shows that the results of trip-based restrictions and their control efficiency have been contentious and even controversial. This includes a reduction of the efficiency of the transport operation itself.
- The use of an original consignment note, as required by administrative law in the majority of EU Member States, to provide the necessary evidence for cabotage operations, will further increase the importance of the transport contract and related documents (consignment note) needed to reinforce transparent and enforceable market relations. However, the CMR Convention does not refer to any standardized consignment letter. Consequently the Member States will not exercise their controls on a single standardized document, but on various types of consignment letters and transport documents, which could lead to higher administrative burden and further discouraging of cabotage.

- Cabotage can only start once the goods carried in the course the incoming international carriage have been delivered. So, cabotage is not possible with a vehicle carrying a partial load during an incoming international journey until the partial load has been delivered. Cabotage is also not allowed when on an outgoing journey to pick up a load or return from an international journey, a vehicle enters a country empty. This will lead to a decrease in flexibility, efficiency and operational losses and could generate more empty runs instead of a reduction which is claimed in the proposal. If efficiency is not increased and empty runs not reduced, the sustainable character of the new definition can also be questioned.
- There is also a lack of clarify about the extent to which the first and final leg by road of an intermodal operation is considered cabotage. Directive 92/106 on combined transport provides a definition of a combined transport operation but leaves too much leeway for interpretation to the authorities of the Member States. This leads to a wide variety of interpretations whereby some consider the first and last leg of a combined transport operation as cabotage. The new proposed restriction may lead to a reduced facilitation and efficiency of combined transport operations.
- The market crisis mechanism has been abolished.

II. IRU POSITION

- The IRU considers that the new proposals for access to the EU international road transport market for road haulage and bus and coach services are attempts towards further harmonisation, simplification and clarification of rules, improved enforcement, a better level playing field for operators from different nationalities and more efficient, sustainable freight logistics and travel and tourism flows in the EU.
- One important aspect which should be pursued for road haulage is the further harmonisation of the use of the driver attestation between the Community and ECMT licence frameworks.
- The new road freight cabotage definition should be fine-tuned to avoid reducing operational efficiency of road freight transport and its contribution to sustainable freight transport logistics and co-modality in Europe. National legislation relating to the consignment letter should be further harmonised in order to improve the enforcement of cabotage and keep the administrative burden and costs for operators to a minimum.
