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LIBERALISATION OF NATIONAL MARKETS FOR COACH AND BUS SERVICES: SAFEGUARDING REGULATION (EC) N° 1370/2007 ON PUBLIC SERVICE OBLIGATIONS

UITP (International Association of Public Transport) is a passionate champion of sustainable urban mobility and is the only worldwide network to bring together all public transport stakeholders and all sustainable transport modes. We have 1,500 member companies giving access to over 18,000 contacts from 96 countries. Our members are public transport authorities and operators, policy decision-makers, research institutes and the public transport supply and service industry. Visit our website: www.uitp.org/eu-policy

Key facts for public transport in the EU 28

Passenger journeys: 57 billion/year, more or less equally shared between road modes (mainly bus) and rail modes (urban, suburban and regional rail).

Economic value of public transport services: € 130 - 150 billion/year or 1 – 1.2% of GDP.

Employment: direct employment 1.2 million and indirect employment 2 - 2.5 indirect jobs for each direct job on average.



Introduction

The proposed revision of Regulation (EC) N° 1073/2009 aimed at opening up domestic coach and bus markets was published by the European Commission on November 8th 2017 along with the other texts contained in the Second Mobility Package.

The Commission's proposal for the review of Regulation 1073/2009 revolves around four key elements:

1. The liberalisation of commercial national coach and bus services markets and the corresponding restrictions and authorisation procedures;
2. Access to terminals – conditions and procedure;
3. The conditions for establishment of non-resident carriers and the ensuing modification of the definition of "cabotage";
4. The regulator's role in monitoring compliance with these new obligations.

The following document presents the main elements of UITP's position regarding the first three aspects of the proposal.

I. Regarding the market liberalisation: upholding the PSO Regulation

The review of Regulation 1073/2009 **must not impact the current organisation of public transport –especially urban and local services- for which Regulation 1370/2007 already provides a progressive and balanced market opening.** The Commission's proposal should not lead to any legal uncertainty for public transport authorities and operators alike.

Under Regulation 1370/2007, the public transport operator (PTO) is required to carry out a certain number of public service obligations and, in return, public transport authorities (PTA) can award exclusive rights in a proportionate manner to a PTO. Under the Commission's current proposal however, the award of exclusive rights would become redundant as the PTA would no longer have the power to guarantee exclusive rights on its own territory.

Moreover, Regulation 1370/2007 recognises the right of PTAs, often local authorities but not only, to organise public transport services in the general interest on their territory and to include profitable and non-profitable services in the same public service contract. Allowing deregulated services to be carried out in areas such as urban, suburban and regional ones, runs the risk, in some Member States, of relegating public service operators to non-profitable services only. Allowing commercial services to compete directly against public transport services may force competent authorities to incur extra costs borne by taxpayers' money in order to compensate the maintenance of their public transport network and services.

The main objectives of European public transport policy are to provide safe, efficient and high-quality passenger transport services while taking into account social, environmental and regional development factors to guarantee their transparency and performance. Local public transport for instance, answers local needs (environmental, social, health and urban planning needs among others) and seeks to reflect local realities. With the advent of autonomous vehicles and as the need to coordinate and help the various stakeholders cooperate becomes more apparent, PTAs' ability to organise mobility services on their territories becomes more crucial than ever. **Public transport authorities must not lose the right, afforded to them under Regulation 1370/2007, of deciding how to award and operate public transport services in their cities and areas based on their local transport plans.**

Regarding the economic equilibrium analysis for interurban services, UITP calls for the procedure and criteria of such an analysis to be established in an implementing act and not a delegated act. Indeed, UITP believes this analysis to be an essential part of the proposal and as such, an implementing act would seem more appropriate.

UITP also believes a certain margin of appreciation should be left to those Member States regarding the distance under which competent authorities may limit the right of access for regular commercial services (100-120 km according to the proposal). A European Regulation is not the right level to determine these figures, and each Member State should be entitled to determine its own limits if it chooses to set such a limit. The same applies to the size of terminals included in the definitions (600m² according to the proposal).

II. Regarding access to terminals: granting priority to public transport services

UITP notes that the proposal does not address the issue, widespread in Europe, of the lack of terminal capacity. However, this issue will need to be tackled if the number of coach and bus services is to increase. Nor does the proposal tackle the issue of developing terminal infrastructure or of funding for such infrastructure.

UITP would also like to state that it understands the requirement for terminal operators to grant access to their terminals under non-discriminatory, fair and transparent conditions as meaning that PTOs and commercial operators must not necessarily be treated in the same way as they are not subject to the same rules and obligations. **It is therefore incumbent on the terminal operator to decide whether or not to grant priority access to PTOs.**

Moreover, UITP believes **there should be more objective criteria that would allow terminal operators to refuse access to their terminals, other than the lack of capacity.** For instance, terminal operators should be able to refuse access to their terminal for security or safety reasons or any other reasons laid down by national law.

III. Regarding access to national markets for non-resident carriers: defending the current definition of cabotage

UITP strongly believes carriers must be resident in a Member State before being able to carry out national regular services. This will ensure all carriers are subject to the laws, regulations and administrative provisions in force in the host Member State and guarantee a level-playing field between carriers. UITP therefore calls for the current definition of cabotage to be re-established.