

9<sup>th</sup> February 2017

## UEAPME Transport Forum

### Position on Review of Regulations 1071/2009 & 1072/2009

**UEAPME Transport Forum** is a co-operation platform set up by UEAPME (The European Association of Craft, Small and Medium-sized Enterprises) and bringing together representatives of European branch confederations, SMEs from road transport, manufacturing and repair of road vehicles. It aims to gather different stakeholders and develop joint positions on all road transport-related issues such as sustainable transport, organisation of the supply chain, road safety, and infrastructure efficiency.

#### Background:

In June 2016, the European Commission launched a public consultation on Review of Regulation (EC) No 1071/2009 on access to the occupation of road transport operator and Regulation (EC) No 1072/2009 on access to the international road haulage market.

The Regulations form part of the so-called EU Road Transport Package. In particular, Regulation 1071/2009 sets the provisions on admission to the occupation of road transport operator (passenger and freight). It also lays down certain provisions to regulate and facilitate enforcement by Member States, including the establishment of a European Register of Road Transport Undertakings (ERRU). Regulation 1072/2009 sets down common rules on cabotage as well as on the enforcement of sanctions with regard to infringements and cooperation between Member States in such cases. Both Regulations have only been partially effective to date in terms of achieving their objectives. The revisions aim at addressing main problems affecting the internal market in road transport with the view of supporting its completion in terms of efficiency and competitiveness.

#### Our position:

UEAPME Transport Forum attaches great value to the revision of both Regulations. Improving common minimum requirements for access to the profession of road transport operator and to the international haulage market is extremely important. UEAPME Transport Forum stresses the importance of the EU intervention through ensuring a consistent monitoring and enforcement of the existing rules as well as their uniform implementation at EU level.

UEAPME Transport Forum considers that the review of both regulations could contribute positively to the growth of the road transport sector and to job creation, improving working conditions, reducing road haulage costs as well as enhancing the economic situation of small transport operators, if the revisions are done in the right way respecting fair competition. We would like the Commission to take our suggestions into account when improving both Regulations.

#### 1. Policy options regarding the review of the Regulation 1071/2009

- **“Letterbox companies”**: Across EU, a number of companies is formally registered in a Member State, but none of their administrative or commercial activities actually take place in that Member State. Regulation 1071/2009 introduced the requirement for all transport undertakings authorised by a Member State to have stable and effective establishment in that Member State. Abolishing “letterbox companies” should be better addressed by ensuring

coherent enforcement of the existing rules as well as guaranteeing their consistent and harmonized application at EU level.

- **European Register of Road Transport Undertakings (ERRU):** Under Article 16(1) of Regulation 1071/2009, Member States are required to set up national electronic registers of road transport undertakings authorised to engage in the occupation of road transport operator. These registers, the linked-up database of which is ERRU, can be used to facilitate the supervision of the road transport undertakings. Currently ERRU is only accessible to enforcement authorities. UEAPME Transport Forum agrees that the access to ERRU should be extended to the road side officers in order to help them check in real time whether a company is registered and entitled to conduct international transport operations as well as to identify high-risk companies with the most serious offences. Regulation 1071/2009 includes four requirements for access to the occupation of road haulier. At present ERRU centrally collects and maintains only data on good repute. Transport Forum proposes that ERRU-register should also include information on the fulfilment of conditions for an effective and stable establishment in a Member State in order to avoid unfair competition.

## 2. Policy options regarding the review of the Regulation 1072/2009

- **Cabotage provisions:** There is a significant variance between Member States, as regards the level of control exercised related to the compliance with restrictions on cabotage operations. This follows naturally from the different levels of cabotage in the Member States. It is highlighted that Member States should ensure that national transport operations in other EU countries (cabotage operations) are strictly conducted under certain conditions. UEAPME Transport Forum calls on the Commission to revise the current legislation and make the rules more specific, since the existing legal framework is laid down in general terms which can easily create controversies. Therefore, it is proposed the enhancement of rules with a view to ensuring better implementation and facilitating monitoring of the cabotage activity. UEAPME Transport Forum rejects any further liberalization of cabotage until the implementation of a comprehensive framework also for social conditions protecting the hosting country has been strengthened. National transport that is part of a combined transport does not have to be considered as cabotage operation and Regulation No 1072/2009 cannot be applied. UEAPME Transport Forum suggests to the European Commission to initiate the review of the Combined Transport Directive (92/106/EEC) in order to eliminate unfair practices and calls for further measures to ensure compliance with the social legislation related to combined transport.
- **Digital tachograph:** The European Commission promotes the use of the digital tachograph equipped with Global Navigation Satellite System (GNSS) function, which can provide the capability for the remote tracking and recording of cabotage activity. UEAPME Transport Forum considers on one hand that the smart tachograph does not give equal weapons to all EU Member States, since it can only register the location of the vehicle after 3 hours of cumulated driving time and thus it creates a disadvantage for some EU countries, which might not find any tachograph registration on their territory due to their small geographical extension. On the other hand, UEAPME Transport Forum supports that a digital tachograph monitored

through GNSS could permit gathering all relevant carrier, vehicle and driver data collected during roadside checks. In addition, it could ensure proper, efficient and non-discriminatory implementation of the existing legislation by Member States without creating additional administrative burdens.

UEAPME Transport Forum also supports the need to ensure that there are no growing financial and bureaucratic burdens.

Taking into consideration these issues, UEAPME Transport Forum points out the importance of the smart tachograph for the increased monitoring of vehicles, but strongly highlights the need to reinforce controls on its use and implementation and calls for additional clarifications of the provisions on the technical and functional requirements of this tool on the basis of its use in the road transport sector.

### 3. Policy options regarding the review of both Regulations

- **Light vehicles:** UEAPME Transport Forum fully agrees with the inclusion of light vehicles (below 3.5 tonnes) within the scope of application of Regulations No 1071/2009 and 1072/2009.

#### **Our proposal:**

At the EU level, we ask for a higher level of harmonization. In order to better face these important issues in the European transport scheme, we propose the following policy actions:

1. **To abolish “letterbox companies” by ensuring enforcement of the existing rules and their harmonized implementation at EU level.**
2. **To facilitate access to ERRU also to the road side officers to control compliance with the EU rules.**
3. **To collect and maintain data on the fulfilment of conditions for an effective and stable establishment in a Member State through ERRU register.**
4. **To revise the current legislation addressing cabotage operations through establishing more specific rules.**
5. **No further liberalisation of cabotage until the additional implementation of a strengthened legal social framework protecting the hosting country.**
6. **To revise the Combined Transport Directive and implement further measures to ensure compliance with the social legislation related to combined transport.**
7. **To call for more controls on the implementation of smart tachograph and additional clarifications of its technical and functional requirements on the basis of its use in the road transport sector.**
8. **To include light vehicles into Regulations No 1071/2009 and 1072/2009.**