

5th April 2016

UEAPME Transport Forum Position on the Road Initiative

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:

The European Commission has conducted seminars on the Road Initiative within the Single Market agenda focusing on specific aspects of road transport. Questions were sent out before the seminars to generate discussion. The first seminar focused on Regulations 1071/2009 and 1072/2009 with reference particularly to: letterbox companies, good repute and level of penalties, as well as cabotage provisions, light vehicles and co-liability of shippers.

The second one on the Road Charging Infrastructure (Directive 1999/62/EC as amended) and the EU framework on the development of interoperable electronic tolls (Directive 2004/52/EC and Decision 2009/750/EC) highlighted 5 main problematic sections of road charging: the financing of road infrastructure, price signals, external costs, congestion charges, and equal treatment of road users especially concerning vignettes.

Our position:

UEAPME Transport Forum welcomes the discussion on the Road Initiative and related problems. Indeed there is a need for strengthening the enforcement of currently applicable rules and creation of such an environment that will ensure a single level playing field in international haulage sector, without affecting the business activities of SMEs outside the transport sector.

The Transport Forum hopes to help in development of fairer charging of infrastructure and in tackling prevailing problems in freight transport. The aim is to present such policy options that will make the current state of the transport sector more effective and competitive.

UEAPME Transport Forum provides suggestions for the solution of current problems with regards to small and medium transport services providers. We would like the Commission to take them into account when improving the state of the European road haulage market.

1. Policy options regarding the enforcement of the Regulation 1071/2009

- **Enforcement of controls on activities of “letterbox companies”:** There has been a particular problem with defining company’s activities within several Member States. It is often ascribed to weak enforcement of controls of established companies by Member States as provided by the Article 4 of the Directive 2014/67 on the enforcement of the Directive 96/71/EC. The Transport Forum pleads for stricter enforcement of controls of established companies at pan-European level in order to avoid the establishment of companies in certain Member State for reasons of taking advantage of differences in social security systems or wage levels that prevail among Member States, as well as for tax avoidance purposes. It has

been no secret that Member States in which so called “letter box companies” are established have economic advantages of their presence in their territory, and therefore have no interest in severe controls of those companies. To tackle the issue and potential discrimination that may arise from such an approach, the Transport Forum proposes to the Commission the introduction of harmonised controls at the EU level that would judge objectively the conditions under which an established company provides its services in each and every Member State. Moreover, taking into account that current rules on the establishment of companies differ substantially among Member States and regarding the Commission’s effort to deter tax evasion practices, the Transport Forum supports further harmonisation of rules on the establishment of companies in general.

- **Unified definition for good repute in order to facilitate the assessment of infringements:** The definition of good repute of the transport manager/transport undertaking is defined too broadly in terms of stringency. As a result of that the assessment of the infringement of good repute varies among Member States and thus it is not clear which infringements should lead to the loss of good repute. Given the vagueness of the definition and the difference in legal systems, convictions for infringements of good repute differ in Member States. To avoid any distortion of competition by the application of different convictions, the Transport Forum is persuaded that rules on the loss of good repute should be harmonized at EU level. There should be set common EU minima and maxima that would ensure the assessment of the infringement of good repute in each Member State on a similar basis. It is also necessary to ensure that infringements committed in other Member States than the Member State in which the haulier has obtained a licence, will be adequately applied by the issuer of the licence and will lead to the loss of good repute. There is a need as well for such provisions that would enable regaining of good repute at European level as so far regaining is not allowed in some Member States. Lastly, the infringements covered by the Annex IV of the Regulation 1071/2009 – most serious infringements for the purposes of Article 6(2) (a) – if committed should lead to the procedure of withdrawal of a transport licence in all Member States.
- **The same system of liability for the level of penalties:** There remain great variations in penalty systems of Member States despite the effort of the Commission to categorise the infringements in order to harmonise sanction imposed in different Member States. It has to be ensured that the same systems of liability are applied around EU-28. Only then the infringement can be equally assessed and penalized. The difference in convictions, penalties and fines among Member States infringe the competitiveness in the cross-border haulage transport. The Transport Forum thus calls for further harmonisation of national penalty systems towards one European standard in the long-term perspective. Being however aware of that such harmonisation of penalty provision in whole EU is very demanding, we propose that the Commission continues with gradual categorisation of infringements as up till now in short-term. We perceive that a uniform definition of the term “penalty” would be helpful as different interpretation of the term contributes often to non-uniformity of national legislative frameworks.

2. Policy options regarding the enforcement of the Regulation 1072/2009

- **Cabotage provisions:** The Commission expressed itself that given the enforcement of cabotage provisions posed difficulties, it was considering to use an alternative time approach. Harmonisation of the road haulage market is still far from being completed. A change of the current time framework could thus negatively influence the whole sector as fundamental

differences in social security systems and different wage levels prevail among Member States. If there is indeed a need for an adoption of an alternative approach to cabotage regime, possible implications on fair competition would have to be taken into account. Therefore and in relation to the fact that the transport market is not yet prepared for further liberalisation, the Transport Forum is persuaded that the current provisional cabotage regime should remain as it is under the condition that there will be effective controls in order to enforce the cabotage legal framework properly.

- **A trend in the switch to light vehicles:** We take note of the discussion on light vehicles for commercial goods transport. We recognize that there are many different concerns to take account of in this discussion.
- **Co-liability of shippers:** The Transport Forum supports co-liability of shippers regarding the transport of containers as regulated by the article 10f of the Directive 2015/719. We believe, however, that only the shipper should be liable for incorrect and missing information about the weight of such a transported load as it is him who is obliged to provide the haulier with all relevant information concerning the load, as provided by the paragraph 1(b) of the above mentioned article. The haulier cannot indeed be liable for exceeding weight of the transported load when he is given incorrect or none information about the load.

3. Financing road infrastructure

The financing of the road infrastructure is different in every member state. Some States have much higher road charges or fuel and motor vehicle taxes and are able to pay for more road maintenance while other States are underfunded and have maintenance deficits which can lead to poor road conditions, traffic jams, and higher expenditure on maintenance or replacement in the long term. Public authorities that benefit largely from revenues generated by fuel and motor vehicle taxes, being only partly reinvested in constructional measures, should take more responsibility for the maintenance of roads. There is a lack of EU-wide harmonization as road charges vary throughout Member States. With toll systems it is possible to incorporate strict earmarking so that money raised via road charges is reinvested back into the road sector to support road infrastructure. Users who pay for the use of a specific transport infrastructure are entitled to good infrastructure.

4. Price signals

Due to significant differences in price signals, traffic flows can be redirected in order to pay smaller road tolls. These situations distort competition and can harm the operation of the internal market. This event can be countered by the harmonization of road tolls across the EU and the incorporation of a price ceiling or maximum toll level.

5. External costs

UEAPME Transport Forum is against the additional internalization of external costs for heavy duty vehicles. External costs for road transport are already now internalized with taxes on petrol, insurance, roads, tunnels, and bridges. Additional costs would seriously hurt the sector. Internalization of external costs will raise at the economic level the issue of double taxation for companies. Internalization of additional cost elements will increase the price of transport which, in the end, will be passed on to the consumer.

6. Congestion charges

Congestion charges aim to act as incentives not to drive in certain areas during times of high traffic volume. However, it is mainly passenger cars and not goods transport that cause traffic jams due to

commuting traffic during rush hours. Companies, on their own, are intrinsically motivated to avoid traffic jams by rescheduling their timetables according to their experience with typical traffic patterns as these traffic jams result in additional costs including loss of time, consumption of gasoline, and penalties for not delivering goods on time. When companies deliver during times with high traffic volume, it is because there is no viable alternative to the respective time and route. Therefore, congestion charges on goods transport are in vain.

7. Interoperable Electronic Toll

Different tolling systems prevail throughout Europe despite the adoption of the Directive 2004/52. It is crucial that all Member States adequately transpose the Directive into their national legislation and thus make concrete steps to adoption of EU-wide interoperable electronic road toll systems in real terms. It has been acknowledged that the progress in the matter may be slower especially in the Member States whose toll collection is bound by long-term contract. In such a case national and regional efforts have to be coordinated to sign future contracts that are in accordance with the EETS legislative. Different national tolling systems generate administrative burden and costs. Interoperable electronic systems with a single OBU in vehicles that would enable to register and pay tolls in different Member States would be a way forward as it would realise the economies of scale and reduce the cost for the whole system. For already existing road toll systems, there should be a single EU-wide OBU (already installed in the new vehicle by the manufacturer) which can communicate with interoperable national electronic road charging systems (in addition to other optional tool detection systems like the Internet and terminals for occasional users in the national traffic). To create an efficient system that would avoid the usage of several OBUs on board, the charging systems in Member States have to be based on similar working conditions set by governments in each Member State.

Our proposal:

At the EU level, we ask for a higher level of harmonization. More attention has to be given to the fair treatment of all road users and the effect charges and external costs have on companies. In order to better face these important issues for the European Transport, we suggest the following actions:

- 1. Harmonisation of controls at the EU level on the “letter box companies”.**
- 2. Harmonisation of rules on loss of good repute and possibility to regain it.**
- 3. Uniform definition of the term “penalty” and gradual categorisation of infringements.**
- 4. Effective controls on enforcement of cabotage legal framework.**
- 5. Enhanced and persistent financing of the road infrastructure through public budgets.**
- 6. Strict earmarking to reinvest back into the road infrastructure.**
- 7. Harmonization of the tolled framework to prevent any distortion of competition.**
- 8. No extension of external cost charges on heavy duty vehicles to prevent double taxation.**
- 9. Promotion of equal treatment of road users by avoiding congestion charges.**
- 10. Promotion of an interoperable distance based tolling system making use of a single European On Board Unit (OBU) in addition to other optional tool detection systems.**