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Accompanying document to the

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on the rights of passengers in bus and coach transport and amending Regulation (EC)
No 2006/2004 on cooperation between national authorities responsible for the
enforcement of consumer protection laws**

SUMMARY OF THE IMPACT ASSESSMENT

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1. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

1.1. Purpose

This impact assessment has been prepared with a view to examining the necessity for and desirability of establishing and/or extending legislation granting rights to passengers in the international bus and coach sector. It focuses in particular on the three main areas of concern highlighted by the Commission in its policy documents, namely 1) the rights of persons with reduced mobility; 2) liability issues (insurance system in the event of death or injury); 3) compensation and assistance to passengers in the event of delay or cancellation.

The Impact Assessment was submitted to the Impact Assessment Board that issued its opinions on 7 November 2007 and 7 May 2008 in which it suggested necessary modifications and improvements of the document.

1.2. Consultation and expertise

Before drafting the legislative proposals and the present report, a public consultation was conducted in order to gather as many comments and suggestions as possible from the individuals and bodies concerned. In July 2005 the Commission launched a public consultation based on the Commission Staff Working Paper “Rights of Passengers in International Bus and Coach Transport”. The Commission received 57 responses to the working paper from: Member State governments (14), European organisations (12), national organisations (20), companies (9) and other contributors (2). The contributions received revealed a clear division between bus and coach operators and their associations and federations on the one hand and consumer associations on the other. As a general rule, bus and coach operators see no need - or only a very limited need - for regulation at EU level, whereas consumer associations call for extensive rights for passengers. However, very clear concerns were also expressed regarding the economic and organisational pattern of this industry, and there was no unanimity about the scope of regulation and the inclusion or exclusion of particular types of service, in particular local and regional services.

2. PROBLEM DEFINITION

2.1. Project background

Over the last thirty years, the phenomenon of passenger mobility has increased considerably. In fact, since the 1970s it has doubled. This trend is due to several factors, but three in particular stand out: namely economic growth, lower travel costs and progress towards a “European area without internal frontiers”¹. However, liberalisation of transport services and the growth in travel have not always been accompanied by adequate measures to protect passenger rights. As their numbers have increased, passengers have faced difficult situations, including cancellations, overbooking, loss of luggage and delays. Bus and coach passengers, in particular, still do not enjoy the same passenger rights as for other modes of transport, especially air transport. Coach passenger rights are not yet covered by Community legislation, and customers therefore have to rely on national liability schemes, fair trading legislation and voluntary customer care commitments by operators. In contrast to other modes there are few

¹ Article 2 of the European Union Treaty.

international agreements concerning passenger rights in bus and coach transport that are binding on Member States.

What are the main problems identified

This mode of transport exhibits a number of distinctive features which affect both the operators and passengers.

Unequal footing with other modes of transport

Passengers in other modes of transport, particularly air passengers, already enjoy a set of rights established at Community level providing for adequate protection in cases where their journey is interrupted (liability of operator for death /injury/lost and damaged baggage; compensation/assistance in the event of cancellation/delays/denied boarding).

Fragmentation of legislation

Protection of bus and coach passengers varies from one Member State to another. Passengers have to rely on national liability schemes, fair trading legislation and voluntary customer care commitments by operators. Operators in some countries have developed extensive voluntary agreements including appropriate complaint handling and dispute resolution mechanisms; however this is not a case for the majority of Member States.

Atomized market

The market is characterized by large number of enterprises providing bus and coach transport services which offer different levels of passenger care and service quality. Passenger care varies from one operator to another and depends largely on national legislation and voluntary agreements that enterprises may have contracted. In many instances, this state of affairs prevents passengers from making informed choices as to the level of service they are likely to receive.

Persons with disabilities and ageing population

In general, passengers using this type of transport tend to be "vulnerable", i.e. on low income/geographically isolated. However, availability of bus and coach services for persons with disabilities and reduced mobility is limited, and this may hamper their integration into society.

Insufficiency of the current legislative framework

The current legislative framework creates real problems for international and domestic passengers. The cross-border problems need to be assessed primarily from the point of view of the passenger undertaking international travel. For passengers, there are big differences between bus and coach industry. In the first place, these stem from national legislation, which differs from one Member State to another, resulting in different levels of passenger protection; secondly, bus and coach transport is on an unequal footing with other modes of transport, notably air and rail, where passengers already benefit or will benefit from a high and uniform level of protection.

3. OBJECTIVES

The main objectives of establishing the rights of passengers are underpinned by the general objectives of the European Union in terms of a high level of customer protection, social inclusion of different social groups and ensuring the movement of persons within the European Union.

4. POLICY OPTIONS

Option 1 "No policy option" - No EU action, so the status quo remains intact; i.e. differing levels of protection of bus and coach passengers in the Member States continue to exist.

Option 2 "Standard protection scenario" - Community legal act establishing a general framework laying down only minimum rules of protection and, where appropriate, consolidating/amending and/or simplifying any existing Community or national legislation.

Option 3 "Enhanced protection scenario" - Community legal act establishing rights of bus and coach passengers in international transport. Option 3.I: international transport only. Option 3.II: both long-distance domestic and international transport.

Option 4 "Self regulation scenario" - Scenario in which the bus and coach operators develop and adopt voluntary EU-wide/domestic self-regulation measures with regard to rights of bus and coach passengers

5. ANALYSIS OF THE IMPACTS

In order to assess the economic, environmental and social impact of the proposed measures to enforce passengers' rights, an evaluation will be made of the impact resulting from each proposed measure.

5.1. Economic impacts

5.1.1. Option 1 No policy option

This option basically maintains the status quo in the sector, and therefore will not have any additional impact on it. Thus, no new economic, social or environmental impacts can be identified at this stage. Passengers would have to continue to rely on national legislation and voluntary schemes developed by the operators.

5.1.2. Option 2 – Standard protection scenario

Liability of operators in event of personal injury or baggage damages

Additional costs that carriers may incur, are related to: minimum allowance amounts, minimum insurance cover amounts, advance payments, legal procedures.

Under these circumstances, indemnity values *per se* are not expected to rise significantly, even if EU intervention might set a minimum amount for indemnities and compensation. It would just be a matter of fixing a common economic threshold, on the basis of national experience and without conditions in the case of higher amounts.

Disabled persons and persons with reduced mobility

The training of drivers and other staff, the provision of information and similar issues will involve other additional costs. Although it is difficult to give an estimate of such costs, it should be noted that all passengers have a common need for information and for trained staff. It is therefore unlikely that the cost of providing for the needs of disabled passengers is greater than it would be for other passengers.

Quality standard and information obligation

It does not appear that the new measures will give rise to any particular additional costs to the operators.

5.1.3. Option 3.I - Enhanced protection scenario (only international)

Liability of operators in event of personal injury or baggage damages

The effects are the same as those analyzed in option 2. Additional impact is related to advance payments. Under these circumstances; transport operators are likely to look for appropriate insurance schemes to cover the risk related to events for which advance payment is due. However, given the limited number of such events and the supposed value of these advance payments², the premiums are expected to be very small.

Disabled persons and persons with reduced mobility

The capital costs of providing wheelchair access at the build stage are estimated to increase the purchase cost of a coach by 8 to 10% (about €19,150)³. This is for the cost and installation of a lift at the vehicle build stage, plus any extra door or vehicle structural adjustments, together with the relatively minor costs of equipping the wheelchair space with restraint systems and any other facilities. Other operating costs will arise from lift maintenance and removing and replacing seats.

The provision of fully accessible coaches can be expected to lead to an increase in the number of disabled people, including wheelchair passengers, using coach services. The additional revenue for domestic and international services due to increase in travel by wheelchair users alone are expected to be 0,5% corresponding to about 55,72 million Euro per year. Whilst the additional revenues for international services only are estimated to be 8,14 million Euro per year.

Additional cost to be borne by the coach operators are estimated to amount to 2,7% of the total industry revenue for the two considered services. The additional revenue (0.5% based on wheelchair users alone) would reduce this loss to approximately 2,2%.

Compensation and assistance in case of cancellations, delays

The cost of compensating and assisting passengers should not be excessive, although this is hard to predict. Nevertheless, the effects on revenue and profits should not be significant and

² In the case of rail transport the advance payment in the in the event of death is never less than 21.000 EUR.

³ These data come from several sources reported in COST 349 Report, including Regione Piemonte grants, coach manufacturers, UK data etc.

also the impact on the competitiveness of Community companies should be slight, as all operators involved in the sector would be covered.

Quality of service and information obligation

The effects are the same as those analyzed in option 2.

5.1.4. Option 3.II - Enhanced protection scenario (both international and domestic)

The option 3.II has the same subject-matter as option 3.I however its scope is extended to domestic long distance services thus more operators/routes will be covered.

5.1.5. Option 4 - Self-regulation scenario

Under this option, the EU will promote a common soft-law framework based on best practices to persuade bus and coach operators to develop and adopt voluntary EU-wide/domestic self-regulatory measures with regard to the rights of bus and coach passengers. At this stage, it is difficult to compare this option against the others in terms of expected economic impact, since it is not possible on the basis of the available literature to make a reliable quantified estimate of the extent to which operators are complying with voluntary agreements.

5.2. Social impacts

5.2.1. Option 1

No new social impacts are expected with option 1.

5.2.2. Option 2

Passengers making bus and coach journeys will benefit if service quality is improved. They will also receive assistance if they experience inconvenience during the journey. Disabled passengers will also receive more assistance than they currently do. Thanks to the proposed measures it will be possible to achieve an important social objective, namely that persons with reduced mobility enjoy comparable opportunities for road transport.

5.2.3. Option 3.I

The provision of fully accessible coaches can be expected to lead to an increase in the number of disabled people, including wheelchair passengers, using the coach services. However, a modest increase in the number of trips, due to wheelchair users alone, is not likely to lead to an increase in number of services by the operators. Therefore, impacts on the level of employment of the coach industry are not expected.

5.2.4. Option 3.II

The impact of the measures under option 3.II may be greater than under option 3.I because these measures could be extended to include long-distance domestic bus and coach services. .

5.2.5. Option 4

Under this option the EU will promote a common "soft-law" framework based on best practices to get bus and coach operators to develop and adopt voluntary EU-wide/domestic self-regulatory measures with regard to the rights of bus and coach passengers. At this stage it

is difficult to compare this option against the others in terms of expected social impact, since it is not possible on the basis of the available literature to make a reliable quantified estimate of the degree to which operators comply with voluntary agreements.

5.3. Environmental impacts

Not all of the options under consideration are directly related to environmental issues. However, these measures may involve increases or decreases in passenger transport demand and therefore the possibility of a modal shift that could have some environmental impacts, which is difficult to assess.

5.4. Value added to the EU

In principle, option 1 will not alter the existing situation, and therefore represents no value added for EU citizens. While the implementation of option 4 may reflect current developments in the bus and coach market, it is not possible to fully ascertain the value added of this approach since the number of voluntary agreements is quite limited and they are inconsistently applied across the EU. The involvement of EU institutions in encouraging economic operators to adopt self-regulatory schemes may bring positive results in the long term. Option 2 and 3 would have significant impact in terms of increased accessibility of services for disabled persons and persons with reduced mobility, revenues of the tourism industry and strengthening of consumer rights in the EU.

5.5. Impact on SMEs

Given the structure of the bus and coach industry the measures proposed will have an impact on small and medium size enterprises. Options 1 and 4 would not create any new burden for small and medium sized enterprises. While option 2 would generate quite modest costs (liability issues, assistance) the impact of option 3 would be significant with regard to the cost of a fleet of vehicles available to disabled persons and persons with reduced mobility.

5.6. Administrative costs

Options 1 and 4 would not generate any additional administrative cost, but options 2 and 3 may have some financial implications. However, at this stage the administrative costs of implementing the provisions on enforcement of passenger rights can be quantified on the basis of the work of national enforcement bodies under Regulation (EC) No 261/2004. It is estimated that the designated national enforcement bodies will have to employ 7 Full Time Equivalents to handle the complaints related to the international bus and coach services.

6. KEY CONCLUSIONS OF THE IMPACT ASSESSMENT

This chapter indicates optimal policy options in view of achieving the objectives of a legislative act. It contains a concise comparison of available options with regards to the main policy objectives as defined in Chapter 2 of the document.

Principle of non-discrimination and assistance to disabled people and with reduced mobility

The optimal policy option is the Standard protection scenario whereas domestic services are also covered. The choice of the best option has been influenced by two main issues, namely

trade-off between the assertion of passenger rights and increasing costs. Bus and coach passengers are "price-sensitive" customers and an increase in fares may cause a modal shift to low cost airlines, cars and railways.

Principle of liability of operators in the event of death or injury of passengers

The optimum policy option is the Enhanced protection scenario (both domestic and international transport). Option 3.II is seen as the best option because it will increase protection of passengers' rights (both domestic and international) and will establish the responsibility of the operators at EU level, with only a moderate impact on the costs to the operators. Option 3.I would solve problems of legal differences between Member States on the issue of international services, but it could also open up some issues regarding discrimination between domestic and international passengers. In fact, since there are few if any national laws at the present time, the EU provisions would mean that national journeys would benefit from less protection than European ones: this difficulty might be overcome simply by including domestic transport in the scope of the provisions (Option 3.II).

Quality standards / information obligations / compensation and assistance in case of cancellations, delays

The optimal policy option is the Standard protection scenario combined with aspects of the self-regulatory option. Option 2 (Standard protection scenario) would be preferable because sufficient protection of passengers guaranteed by legislation will also encourage bus and coach transport operators to offer better services without raising fares. The Commission should encourage European bus and coach enterprises to draw up appropriate quality standards and develop good practices.