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EUROPEAN COMMISSION

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**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to Article 294(6) of the Treaty on the Functioning of the European Union

concerning the

**position of the Council at first reading on the adoption of the Regulation of the
European Parliament and of the Council concerning the rights of passengers when
travelling by bus and coach and amending Regulation (EC) No 2006/2004 on
cooperation between national authorities responsible for the enforcement of consumer
protection laws**

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1. BACKGROUND

Date of transmission of the proposal to the EP and the Council [4 December 2008](#)
(document COM/2008/817 - COD-2008-237):

Date of the opinion of the European Economic and Social [16 July 2009](#)
Committee:

Date of the position of the European Parliament, first reading: [23 April 2009](#)

Date of adoption of the Council position at first reading : [11 March 2010](#)

2. OBJECTIVE OF THE COMMISSION PROPOSAL

The proposal, adopted by the Commission on 4 December 2008, aims at establishing rights of passengers when travelling by bus and coach in order to improve the attractiveness of and confidence in passenger transport by road. By introducing new rules, it will enhance the protection of passengers in general, and the disabled and persons with reduced mobility, in particular. It will also set quality standards comparable to those already established in the air and rail sectors.

3. COMMENTS ON THE COUNCIL POSITION

3.1. General comments

The Commission considers its proposal to have been substantially modified by the Council in some of its parts.

Firstly, the Council position gives Member States the possibility to exempt urban, suburban and regional regular services, including cross-border services of such nature, from the application of the Regulation. The Commission proposal included only such a possibility if such exempted services were covered by public services contracts ensuring a comparable level of passengers' rights. Additionally, Member States, for a limited period of time, may exempt domestic regular services as well as international services of which a significant part

is operated outside the Union. These would represent significant limitation of the scope of application.

Secondly, the Commission proposal contained a chapter with detailed rules on obligations of carriers with regards to compensation and assistance in the event of an accident. The Council position has replaced the initial Commission proposal related to carrier liability by a reference to applicable national law and an obligation for Member States to ensure that any maximum compensation under national law has to be no less than 220.000 EUR per passenger and 500 EUR per piece of luggage in urban, suburban and regional services (1.200 EUR for all other transport services). The Council position has also substituted the advance payment requirement by the obligation for carriers to provide assistance to the immediate practical needs of passengers following an accident. Although this position falls considerably behind the provisions in the Commission proposal, it would nonetheless increase the level of protection of passengers at European level, compared to the current situation.

Finally, the Commission takes note of the decision of the Council for the Regulation to be applicable after two years (and not one year) from entry into force.

3.2. Amendments of the European Parliament accepted by the Commission and included completely or partly in the Council position

- amendment 3 underlining the specificities of the bus and coach sector;
- amendment 5 which refers to the framework conditions for the provision of disability-related training;
- amendments 26, 30, 31, 36, 45, 46 aiming at clarifying and streamlining the wording of the proposal;
- amendment 32, 58, 62 clarifying the format of information in order to be accessible to all passengers.

3.3. Amendments of the European Parliament accepted by the Commission but not included in the Council position

- clarification of recitals (amendments 1, 2, 6);
- the introduction of new recitals which encourage Member States and market actors to invest in vehicles and infrastructure suitable for the transport of disabled and passengers with reduces mobility (amendments 7, 8, 9 and 10);
- amendments 13, 16 and 17 clarifying definitions;
- amendment 15 on definitions;
- amendment 23 and 82 clarifying the conditions of the proposed regime of carriers' liability in the case of accidents;
- amendments 50, 51 (partially) and 55 reinforcing passenger rights in the case of delays and cancellation of services;

- amendments 59 and 60 specifying the conditions under which passenger care shall be provided by carriers in case of delays;
- amendments 61, 63 underlining the need of carriers to ensure the accessibility of information and complaint handling mechanisms for all passengers including PRM;
- amendments 64, 65, 66, 67, 68 clarifying and partially enhancing the functioning of the complaint handling regime and enforcement provisions;
- amendment 70 clarifying the list of assistance action to be provided to disabled and passengers with reduces mobility onboard;
- amendments 73, 33, 34 (partially), 35, 37, 40, 42, 43, 44, reinforcing the conditions under which PRM shall be provided assistance for before, while and after their travel by bus and coach.

3.4. Amendments of the European Parliament rejected by the Commission but included completely or partly in the Council position

- amendment 27, 29 clarifying the conditions for derogations to the right of transport for disabled and passengers with reduces mobility;
- amendment 53 granting passengers the right to meals and refreshments in case of delays;
- amendment 69 suggesting a date of application of the Regulation two years after its entry into force.

3.5. Amendments of the European Parliament rejected by the Commission and not included in the Council position

- amendments 4, 18, 19, 21, 22, 24 providing changes to the regime of carrier liability in the case of accidents;
- amendment 14 on definitions;
- amendment 25 implying to disregard safety in the transport of disabled and passengers with reduced mobility;
- amendments 38, 39, 41 relating to the conditions of providing assistance to disabled and passengers with reduces mobility;
- amendments 47, 48 limiting the liability of carriers in respect of wheelchairs and mobility equipment;
- amendments 49, 52, 54, 56, 57 related to the liability of carriers in the case of delays or cancellations;
- amendments 71 and 72 reducing the scope of assistance action onboard or of training to be provided to staff to meet needs of PRM in transport.

4. CONCLUSION

The Commission is deeply concerned about the very substantial modifications introduced by the Council as compared to the initial proposal of the Commission and to some amendments of the European Parliament, to the extent that they considerably reduce the scope of application of the draft Regulation and hence the level of protection of EU passengers. The Commission takes note of the position adopted by the Council by unanimity and considers that the level of ambitions should be constructively raised again in the framework of further inter-institutional debate in view of the final adoption of the Regulation.

5. STATEMENTS BY THE COMMISSION

The Commission made the following statement at the meeting of Council of transport ministers on 17 December 2009:

"The Commission declares that, despite the fact that the political agreement does not entirely meet certain important objectives of its initial proposal, it intends not to oppose this agreement in order to ensure the continuation of the ordinary legislative procedure."