

INCEPTION IMPACT ASSESSMENT			
TITLE OF THE INITIATIVE	Review of Regulation (EC) No 1073/2009 on access to the international market for coach and bus services		
LEAD DG – RESPONSIBLE UNIT – AP NUMBER	DG MOVE - UNIT C1 - 2016/MOVE/002	DATE OF ROADMAP	14/12/2016
LIKELY TYPE OF INITIATIVE	Legislative (revised Regulations) and/or non-legislative (e.g. Communication)		
INDICATIVE PLANNING	See list of planned Commission activities here .		
ADDITIONAL INFORMATION	A specific website for the initiative will be created.		
<p>This Inception Impact Assessment aims to inform stakeholders about the Commission's work in order to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have, including on possible impacts of the different options. The Inception Impact Assessment is provided for information purposes only and its content may change. This Inception Impact Assessment does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content.</p>			

A. Context, Problem definition and Subsidiarity Check
<p>Context</p> <p>The freedom to provide services is a basic principle of the common transport policy and requires that carriers from all EU countries have access to international transport markets without discrimination on grounds of nationality or place of establishment. Regulation (EC) No 1073/2009 establishes the conditions for the international carriage of passengers by coach and bus within the EU.</p> <p>Building on the findings of fact finding studies from 2009 and 2016, the Regulation has been the subject of an ex-post evaluation aimed at providing the Commission with an assessment of its implementation and effectiveness. The ex-post evaluation and the impact assessment are performed consecutively and will be covered by a common open public consultation. The ex-post evaluation will be finalised after the open public consultation.</p> <p>In its communication on “A European Strategy for Low-Emission Mobility” the Commission states its intention to create enabling conditions and to provide strong incentives for low-emission mobility. It announced that it will take measures to allow for a further development of domestic bus and coach services in order to further strengthen public transport and contribute to the reduction of carbon dioxide emissions from road transport.</p> <p>This initiative is complementary to other ongoing road transport initiatives, in particular to the enhancement of the social legislation in road transport and the review of Regulation (EC) No 1071/2009 on access to the occupation of road transport operator.</p> <p>The initiative contributes to the Commission general objectives No. 3 "A Resilient Energy Union with a Forward-Looking Climate Change Policy" and No.4 "A Deeper and Fairer Internal Market with a Strengthened Industrial Base". A revision of the Regulation is included in the Commission Work Programme 2017.</p>
<p>Problem the initiative aims to tackle</p> <p>The preliminary results of the ex-post evaluation of the Regulation identified some shortcomings that prevent the Regulation from being fully effective at fulfilling the policy aim of modal shift and the subsequent reduction of the negative impacts of transport. The shortcomings are:</p> <ol style="list-style-type: none"> 1. The significant differences in rules on access to national markets for regular services across Member States hinders the performance of both national and international segments of the coach and bus market. National frameworks often act as technical and administrative barriers as some Member States require establishment of foreign operators in their national jurisdiction to have access to their market, whereas others use other means to restrict access to their market for the benefit of incumbent operators. 2. Closed national markets with a small number of incumbent operators hinder the development of international markets. The development and strengthening of international markets may require the opening of national markets in order to create a critical mass of operators who would also introduce international services. 3. The numerous and diverse range of national access arrangements also cause obstacles to the free provision of services, distorts competition increases the administrative burden for operators. This undermines the overall efficiency of the market for coach and bus services and makes it difficult for carriers to exploit the full potential of operating in an internal market. Furthermore it hampers the ability of coach and bus services to capture significant modal share from private passenger cars, which could support the efforts to reduce CO₂

emissions and air pollutant emissions from road transport. The patchwork disproportionately affects SMEs which have limited resources with which to develop EU-wide business strategies.

4. A specific barrier to competition is caused by discrimination in access to terminals in (at least some) Member States distorting service patterns and limiting the possibility of operators to adapt services to passenger demand. This limits competition and also contributes to the inability of coach and bus services to compete effectively with other transport modes.

Subsidiarity check (and legal basis)

The legal basis underlying the existing Regulation and possible revision thereof is now [Article 91 TFEU](#) (ex-Article 71 TEC).

The evaluation has confirmed that a Regulation was the correct EU law instrument to implement the policy on access to the international market for bus and coach services and on the functioning of the internal market.

The patchwork of national regulatory frameworks is leading to wider disparities and imbalances between Member States which are hindering the internal market. Action by Member States alone cannot address the patchwork and therefore the EU is in a better position to ensure a coherent framework for access to the domestic markets for regular services, for access to terminals and to ensure the availability of statistical information.

B. Objectives and Policy options

The initiative aims at improving the performance of coach and bus services vis-a-vis other transport modes, especially private car and further developing the internal market for coach and bus services. This should lead to a reduction of the adverse environmental effects connected with mobility.

This translates into the following specific objectives:

- To create more uniform business conditions
- To create a level playing field for access to terminals

The baseline scenario would be to maintain the existing rules as they are today. The problems identified above would persist and may become worse.

There are 4 policy options to be considered for creating more uniform business conditions:

Option 1: "Liberalisation"- open the market of regular services (international and domestic) enabling any EU operator to provide regular services and totally abolish the authorisation procedure for regular services.

Option 2: "Restricted opening with limited access; protect public service contracts; provide an exception for routes that would not seriously affect the viability of a comparable service covered by a public service contract; requirement for establishment in Member State is abolished"- the scope of the Regulation is extended to include the market for national regular services. The distinction between international and national market access rules is removed and a common set of rules for regular services is created.

Option 3: "Restricted opening with limited access; protect public service contracts; provide an exception for routes that do not compromise the economic equilibrium; requirement for establishment in Member State is abolished"- establish a new set of common rules for access to national markets for regular services that are different to the international rules. Member States have the possibility to limit access if the new service would compromise the economic equilibrium of the public service contract.

Option 4: "Restricted opening with limited access; protect public service contracts; provide an exception for routes on which passengers are carried over a certain distance and/or carried over a certain time; requirement for establishment in Member State is abolished"- the scope of the Regulation is extended to include the market for national regular services and Member States may limit access if the predetermined stopping points are not over a specified distance apart and/or if the entire length of the journey does not exceed a certain time period.

There are 2 further options to create a level playing field for access to terminals:

Option 5: "Guidelines" – Issue guidelines on the management of coach terminals that would require terminal operators to provide operators access to terminals on fair and non-discriminatory terms.

Option 6: "Equal access" – Establish minimum common requirements to ensure that coach terminals provide access to operators of regular services on fair and non-discriminatory terms.

C. Preliminary Assessment of Expected Impacts

Likely economic impacts

The main economic effect would be an improvement in the quality, competitiveness and attractiveness of coach and bus services. Removing restrictions on services and terminals will enhance the operational effectiveness of road passenger transport operators and create business opportunities for carriers and terminal operators. There will be a positive effect for certain regions as a result of the introduction of new services which will create jobs and develop tourism. There will be improvements in terms of affordability for the consumer. Unlimited access without the protection of public service contracts may have negative effects on the efficiency of the market.

Likely social impacts
It is expected that there would be growth in the number of operators and regular services and possible horizontal diversification of large operators would lead to the creation of employment opportunities. Increased affordability would have a positive impact on the mobility opportunities for the public. The use of coach and bus services as a substitute for car is likely to have a positive impact on road safety.
Likely environmental impacts
The main environmental impact would be a reduction in in the total amount of CO ₂ and toxic emissions. The lowering of emissions will be achieved by the modal shift from passenger car, rail and airplane to coach and bus services and also improved multimodal integration incentivising a shift towards other lower emission collective transport modes such as rail.
Likely impacts on fundamental rights
The planned measures are not expected to have any impact on fundamental rights.
Likely impacts on simplification and/or administrative burden
The foreseen change to the national market for regular services would reduce the administrative burden for road passenger transport operators as it would effectively amalgamate the rules for national and international regular services making the new rules simpler and more coherent. This would reduce administrative procedures that may delay the redeployment of resources to more commercially attractive services. The standardisation of the authorising procedure for national regular services would also reduce the operators' workload when completing applications. An increase in administrative burden would be borne by Member States with regards to implementing foreseen rules to provide coach services with equal and non-discriminatory access to terminals.
D. Data Collection and Better Regulation Instruments
Impact assessment
An impact assessment is being prepared to support the preparation of this initiative and to inform the Commission's decision. It will be supported by an external study to be carried out by a consultant.
Data collection
The data supporting the problem definition has been mainly collected during the 2016 fact finding study . This information will be further analysed and processed in order to fine-tune the description of the problems in the course of the impact assessment. The impact assessment support study will help the Commission identify possible missing elements in the identified problems, validate the potential policy measures, identify other relevant policy measures and quantify the main economic, social and environmental impacts linked to the different policy options. Further information needs which might arise will be determined once the options and sub-options to be analysed during the impact assessment will be more precisely determined. Such potential additional information needs will in principle be met by the consultant within the context of the impact assessment study. The Commission may also use its network of contacts in this sector to solicit further information.
Consultation strategy
The consultation will aim at providing the general public and stakeholders with an opportunity to express their views on all elements relevant for the functioning of the internal market in road passenger transport, as well as to express their positions on the possible/desirable changes to the regulatory framework. It also aims at gathering specialised input (data and factual information, expert views) on specific aspects of the legislation (e.g. national markets for regular services, terminals, etc.) from the enforcement community and from the industry, in order to prepare the impact assessment and the legislative proposal. A 12-week open public consultation will be launched in December 2016. There will be two questionnaires, one for the general public and a more specialised one for key stakeholders. The questionnaire for the general public will be short, written in plain language and available in all 24 official EU languages. The specialised questionnaire will be available in English; will be longer and more technical in nature than the general public questionnaire. Citizens are free to reply to both questionnaires and replies are welcomed in any official EU language. Written contributions may be submitted in any EU official language. Apart from the open public consultation, a combination of other methods may be used, including targeted consultations of stakeholders. The tools used for these targeted consultations will include stakeholder questionnaires and oral interviews and possibly hearings and/or other events. These consultation activities will take place in the course of the impact assessment support study. Background document to the initiative and all consultation documents will be published on the consultation webpage https://ec.europa.eu/transport/node/4841 for this initiative. The open public consultation will also be accessible from Your Voice in Europe . At the end of the consultation process, a synopsis report will be published, summarising all the consultation activities performed and the outcome of the consultation. This report will be published on the consultation

webpage and be available in all EU languages.

Will an Implementation plan be established?

This initiative concerns the possible revision of Regulation (EC) No 1073/2009, which is directly applicable in Member States and does not need to be transposed into national law. The potential revision at stake would involve amending only a limited number of existing legal acts and therefore an implementation plan is not required.