



## EUROPEAN COMMISSION

*Brussels, 7.8.2018  
C(2018) 5352 final*

*Dear President,*

*The Commission would like to thank the Assemblée nationale for its Opinion on the first "Mobility Package" {COM(2017) 275 final to COM(2017) 282 final}.*

*This package of ambitious measures is designed to achieve a number of objectives, notably to improve the conditions for fair competition in the market, the working conditions for drivers in the road transport sector and road safety, as well as to reduce emissions and other negative externalities of road transport. The proposals are intended to simplify and clarify existing rules, to make enforcement more efficient and to cut down on administrative burden.*

*The Commission welcomes the broad support of the Assemblée nationale for several aspects of these proposals, such as the fight against letterbox companies, improved resting conditions for drivers and a European Union framework for road charging, but also notes its concerns as regards several others aspects, such as rules on cabotage and sector specific rules for posting of workers. In response to the issues raised by the Assemblée nationale on various aspects of the package, the Commission would like to refer to the attached Annex.*

*These clarifications are based on the initial proposals presented by the Commission, which are currently in the legislative process involving both the European Parliament and the Council.*

*Discussions are progressing in the Council's Working Group. The Commission is working closely with the Presidency to identify the main issues where Member States' opinions are divided and to facilitate discussions. It remains hopeful that the co-legislators will adopt the acts proposed in the near future.*

*Mr François de RUGY  
President of the Assemblée Nationale  
Palais Bourbon  
126, rue de l'Université  
FR – 75007 PARIS*

*The Commission hopes that these clarifications address the issues raised by the Assemblée nationale and looks forward to continuing the political dialogue in the future.*

*Yours faithfully,*

*Günther H. Oettinger*

*Member of the Commission*

## ANNEX

*The Commission has carefully considered each of the issues raised in the Opinion of the Assemblée nationale and is pleased to offer the following clarifications.*

### Internal Market issues

*As regards cabotage, and more specifically the requirements of Article 8 of Regulation (EC) No 1072/2009, the objective of the Commission's proposal is to make enforcement easier and more effective, without opening or closing the market for cabotage as compared to the current status. The impact assessment carried out in preparation of the Commission's proposal does not conclude that the new rules would lead to an increase in cabotage activity, including "systematic cabotage". The desire to improve enforcement in respect of cabotage also underpins a number of other elements proposed by the Commission and notably the proposed new Article 10a of Regulation No 1072/2009 on cabotage checks.*

*As regards light commercial vehicles, the Commission considers that a minimum level of regulation is required for operators using such vehicles to ensure professionalisation in the sector. The extension of the criteria on effective and stable establishment and appropriate financial standing to light commercial vehicles operators should contribute to fairer competitive conditions between operators which are currently not subject to any European rules on access to the profession and hauliers using heavy goods vehicles who are required to apply the full body of European regulation in this area. Under the proposed measures all operators would be subject to an obligatory licencing procedure, which is currently not the case. The Commission proposal includes an obligation for Member States to closely and regularly monitor developments in the national haulage market, especially concerning light commercial vehicles. This would allow the Commission to report to the Council and to the European Parliament by the end of 2024 whether further regulation for the sector is necessary.*

*The Commission fully shares the emphasis placed by the Assemblée nationale on the need to improve the enforcement of the road transport rules. To strengthen and harmonise enforcement throughout the European Union, the Commission has proposed several measures, such as: a common formula for calculating the risk rating of transport undertakings, extending the system of European Registers of Road Transport Undertakings to include also infringements against the posting rules, and better use of tachograph data to control compliance with road transport rules. The structured administrative cooperation between Member States with fixed deadlines for exchange of data, as proposed by the Commission, is also one of the measures aimed at improving cross-border enforcement.*

*The technical and legal feasibility of some of the suggestions put forward by the Assemblée nationale would need to be further assessed. For instance, the proposal for direct and real-time access by competent authorities of one Member State to the national electronic registers of other Member States, including at the roadside, will have to be carefully considered. Also the idea of bringing forward the end of the transition period for retrofitting all vehicles with smart tachographs from 2034 to 2023 needs to be*

*assessed, taking account – among other things – of the capacity of authorised workshops dealing with installation and calibration of tachographs. According to a study launched by the Commission, published on the Europa website<sup>1</sup>, a period of 5 years would be required to retrofit the existing fleet of vehicles with the latest generation of tachographs.*

*As regards the proposal of the Assemblée nationale to set up a European body to ensure uniform application and enforcement of the rules, the Commission wishes to highlight that on 13 March 2018 it adopted a Social Fairness Package, including a draft Regulation establishing a European Labour Authority {COM (2018) 131 final}. One of the tasks of this Authority would be to support and coordinate the enforcement activities of Member States in the cross-border enforcement of relevant Union law, which also covers Union law in the area of road transport. Another task would be to mediate in disputes between Member States in case of diverging interpretations of European Union rules, which was one of the concepts put forward by the Assemblée nationale.*

*The Commission does not share the concerns of the Assemblée nationale as regards the potential impact which the possibility to use vehicles hired outside the country of establishment of an operator would have on the fight against letterbox companies. Member States would be able to restrict the use of such vehicles to some extent. These restrictions should make it economically unattractive to undermine the establishment criterion in a way feared by the Assemblée nationale. The Commission wishes to emphasize in this context that a number of Member States already today allow the use by their operators of vehicles hired in other Member States and they do not report any problems related to the establishment of their operators.*

### Social issues

*The Commission appreciates the support of the Assemblée nationale for the proposed measure aimed at improving the resting conditions for drivers, specifying where a driver shall be able to spend his regular weekly rest. It wishes, however, to point out that this measure must be considered in conjunction with other measures that will allow for a certain degree of flexibility. Such flexibility is necessary to enable drivers to return home for a regular weekly rest and to compensate previous reduced weekly rest periods.*

*The Commission considers that the application of horizontal rules on posting of workers to the international road transport sector should fully take into consideration the highly mobile character of this sector. In the Commission's view this implies the adoption of an adapted framework for the application of the relevant part of these rules to the international road transport sector. Applying the national rules on posting to the road sector in an uncoordinated manner has proven to impose considerable administrative burdens on hauliers. Therefore, the Commission has proposed sector specific rules for posting of drivers and for harmonised administrative and control measures to ensure that there is a proper balance between the protection of social rights of workers and the freedom to provide cross-border services for operators. The European Union Parliament*

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<sup>1</sup> [https://ec.europa.eu/transport/modes/road/studies/road\\_en](https://ec.europa.eu/transport/modes/road/studies/road_en)

and the Council have in the meantime agreed on a revision of the horizontal rules on posting of workers.

### Road charging

The Commission welcomes the support of the Assemblée nationale for a wider application of the polluter pays principle, and recalls that distance-based road charging is the single most effective instrument to reflect the various impacts of road transport decisions. At the same time, in order to provide for a high level of discretion for Member States in addressing the impacts of local and regional transport, it would still be possible, according to the proposal, to apply time-based charging outside the Trans-European Network and the network of motorways. Since urban road user charging is outside the scope of Directive 1999/62/EC and the Commission does not propose to change this, Member States retain a large amount of freedom in this respect.

The objective of varying road charges according to emissions is to speed up the renewal of the vehicle fleet. The variation of charges between vehicles complying with the Euro VI standards and vehicles only complying with previous standards (Euro 0 to V) is gradually becoming redundant as the share of older vehicles used on toll roads is already significantly lower than those of Euro V and VI vehicles, and decreases every year. It is proposed to introduce the variation of infrastructure charges according to the CO<sub>2</sub> emission of Heavy Duty Vehicles as soon as possible after the necessary certified CO<sub>2</sub> emission data become available.<sup>2</sup> External cost charging to reflect the actual level of pollutant emissions of heavy duty vehicles of any Euro class is and will remain possible. The Commission considers that, in order to achieve a truly comprehensive application of the polluter pays principle, operators of concession tolls should also make efforts to differentiate tolls according to the environmental performance of vehicles.

Regarding the reduction of the minimum vehicle tax applicable to heavy goods vehicles, and depending on the development of the debate before the co-legislators, the Commission is ready to assess suggestions for a shorter transition period, as well as proposals related to the wider use of mark-ups. On this last point, and as a general remark, the Commission would like to underline the need for objectivity. As a consequence, the application inter alia of additional charges on top of an infrastructure charge must be calculated in accordance with certain minimum standards.

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<sup>2</sup> CO<sub>2</sub> emission data will only be available for the most recent trucks, thus only those may benefit from lower charges.