



An Comhchoiste um Iompar, Turasóireacht agus Spórt

COM (2017) 647

Togra le haghaidh Rialachán ó Pharlaimint na hEorpa agus ón gComhairle lena leasaítear Rialachán (CE) Uimh. 1073/2009 maidir le comhrialacha le haghaidh rochtain ar an margadh idirnáisiúnta do sheirbhísí cóiste agus bus

Nollaig 2017

Joint Committee on Transport, Tourism and Sport

COM (2017) 647

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No. 1073/2009 on common rules for access to the international market for coach and bus services

December 2017

JOINT COMMITTEE ON TRANSPORT, TOURISM AND SPORT

Report under Dáil Standing Order 114 and Seanad Standing Order 116 on:
COM (2017) 647 - Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/2009 on common rules for access to the international market for coach and bus services.

1. Introduction

1.1 The principle of subsidiarity is defined in Article 5(3) of the Treaty on European Union (TEU) as follows:

“Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.”

Article 5(3) also gives specific responsibility to national parliaments to ensure that EU institutions apply the principle in accordance with Protocol 2 on the application of the principles of subsidiarity and proportionality.

1.2 The test established by Article 5(3) TEU is, in effect, a “comparative efficiency” exercise, involving a “necessity” test and a “greater benefits” test:

- (i) **Necessity** - Is action by the EU necessary to achieve the objective of the proposal? Can the objective of the proposal only be achieved, or achieved to a sufficient extent, by EU action?
- (ii) **Greater Benefits** - Would the objective be better achieved at EU level – i.e. would EU action provide greater benefits than action at Member States level?

1.3 To assist national parliaments in their evaluation of subsidiarity compliance, Article 5 of Protocol 2 provides explicitly that

“Any draft legislative act should contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality. This statement should contain some assessment of the proposal's financial impact and, in the case of a directive, of its implications for the rules to be put in place by Member States...”

1.4 Therefore, any new draft legislative act

- must be supported by a sufficiently ‘detailed statement’ to allow a judgment to be made by national parliaments on its compliance with the principle of subsidiarity

- must clearly satisfy both the *necessity* and *greater benefit* tests
- must, under the principle of conferral set down in Article 5(2) of the TEU, show that the Union is acting '*only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein*'.

2. Scrutiny by the Committee

The Joint Committee on Transport, Tourism and Sport ("the Committee") scrutinised this proposal at its meeting of 13 December 2017, concluding with a decision to issue a reasoned opinion.

3. Background to the Proposal

Regulation (EC) No. 1073/2009 sets down rules with which undertakings intending to operate on the international road passenger transport market and on national markets other than the market of their Member State of establishment must comply. An evaluation of this Regulation noted the following:

"..the Regulation is only partly effective in achieving its original objective of promoting coach and bus services as a sustainable alternative to individual car transport. It found that the opening of national markets for regular services by coach and bus creates a critical mass of operators who then also introduce international services, resulting in a greater impact on the number of international routes and service frequencies than pan-European legislation alone. Further opening of national markets will strengthen the development of the international market for regular services..." (European Commission, 2017)

4. Opinion of the Committee

The Committee has had specific regard to the Treaty provisions and is of the opinion that the proposal does not comply with the principle of subsidiarity. The reasons are set out in the following paragraphs.

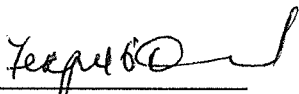
- The Committee considers the choice of instrument in this proposal problematic as it believes that amending an existing Regulation in this manner, as opposed to achieving the objective of this proposal through other means, unnecessarily limits the provision for national decision-making. Consequently, the scope for Member States to choose how to implement the proposal's objectives at national level, and in accordance with established national systems, is constrained.

- The Committee believes that the actions in this proposal do not sufficiently restrict themselves to those necessary to fulfil its stated objectives and, therefore, are not proportionate to the objectives of this proposal.
- The Committee is of the opinion that the Commission has not adequately considered the option of strengthening existing or alternative mechanisms, which could be enforced at national and EU level, but has proceeded with a measure that involves significant modifications at the level of national markets in order to effect change at the level of the international market.
- The Committee is further of the opinion that this measure, which seeks to amend Regulation (EC) No. 1073/2009 on common rules for access to the international market for coach and bus services, has the potential to have far reaching implications on well-established national arrangements in place in Ireland's public transport sector.
- The Committee is satisfied that the above points, taken together, clearly demonstrate that the proposal does not comply with the principle of subsidiarity.

5. Recommendation of the Committee

The Committee agreed this Report under Dáil Standing Order 114 and Seanad Standing Order 116 on 13 December 2017.

The Committee, pursuant to Dáil Standing Order 114(3)(b) and Seanad Standing Order 116(3)(b), recommends the reasoned opinion contained in section 4 above, for agreement by Dáil Éireann and Seanad Éireann.



Fergus O'Dowd, T.D.

Chairman

Joint Committee Transport, Tourism and Sport

13 December 2017