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Dear Ms Lejeune

Review of Article 37.3 of Directive 2006/112/EC – expert study on issues arising from possible reference points for taxing goods and services, including restaurant and catering services, supplied onboard means of transport

I have pleasure in attaching completed policy option matrices on behalf of _____ in connection with the above expert study.

Although we have attempted to assess each of the policy options in a completely unbiased and consistent manner, we are concerned that the adopted approach may lead to conclusions that do not reflect the coherent views of all those surveyed.

Firstly, the approach only attempts to assess the direct impacts on operators, making no reference whatsoever to the wider implications across supply chains and the dynamics between different transport modes. Whilst it is appreciated that this is a high level assessment of tax policy change implications, wider implications besides direct impacts should, in our view, also be considered.

Furthermore, in completing the individual ratings there did not appear to us to be a clear objective measure as to what the scoring system represents. The choice of score by different respondents is therefore likely to be highly subjective, and, thus, by definition, lead to inconsistent ratings. If a scaled number system is used, each number should have a respective statement or qualification as to what it represents.

Moreover, with a lack of wider quantitative evidence, it is difficult for respondents to rank options effectively, thus undermining subsequent analysis. This implies that even if the answer is not exposed to bias and inconsistency, the application of the scoring system might result in a disguised and biased indication of the policy outcome.

We would submit that in any option analysis, the Key Performance Indicators, ('KPIs'), used should be specific, (i.e. not introduce ambiguity amongst respondents), and measurable, (i.e. clearly defined against an objective benchmark).

Whilst we accept that not all KPIs can be quantitatively assessed, those items which represent specific cost impacts should be quantified where possible. Qualitative responses must be clearly structured against transparent criteria to enable fair comparison across policy options.

In addition, any subsequent more detailed assessment, (e.g. a full Economic Impact Assessment), should not present conflicting outcomes with respect to a high level policy option study. However, this would not appear to be the case here as the highly subjective nature of the KPI scoring system could lead to biased, inconsistent and uncertain outcomes when compared with a more rigorous approach.

There is one other very important issue that needs to be taken into account since it will undoubtedly influence the approach of many respondents to several of the policy options.

Most Member States continue to treat supplies of restaurant and catering services onboard foreign going vessels departing an EU port as VAT exempt consumables. This treatment, which has always been tacitly accepted by the European Commission, has been in existence since 1993 and complements the existing arrangements for ships stores.

Since there has never been any formal indication of its early withdrawal, ferry companies have effectively been encouraged to factor this long-standing practice into their future investment programmes and current fare tariffs and onboard pricing structures. We would therefore contend that they now have a legitimate expectation and/or interest in Member States being allowed to maintain their present practices in accordance with the principles of fairness and reasonableness.

Thus, if taxation of restaurant and catering services is to be introduced under any of the policy options identified, we believe this would be tantamount to a substantive change which has a clear and identifiable economic, social and environmental impact and, as such, should therefore be subject to a full Economic Impact Assessment before it is implemented.

We trust you find our analyses helpful to your study but would be happy to discuss our comments and conclusions in more detail if/as required.

Yours faithfully