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COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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Subject: COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY
OF THE IMPACT ASSESSMENT Accompanying the document Proposal
for a Regulation of the European Parliament and of the Council amending
Regulation (EC) 561/2006 as regards minimum requirements on maximum
daily and weekly driving times, minimum breaks and daily and weekly rest
periods and Regulation (EU) 165/2014 as regards positioning by means of
tachographs and Proposal for a Directive of the European Parliament and
of the Council amending Directive 2006/22/EC as regards enforcement
requirements and laying down specific rules with respect to Directive
96/71/EC and Directive 2014/67/EU for posting drivers in the road transport
sector

Delegations will find attached document SWD(2017) 187 final.

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COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) 561/2006 as regards minimum requirements on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods and Regulation (EU) 165/2014 as regards positioning by means of tachographs

and

Proposal for a Directive of the European Parliament and of the Council amending Directive 2006/22/EC as regards enforcement requirements and laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector

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Executive Summary Sheet (Max 2 pages)

Impact assessment for a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) 561/2006 on driving times, breaks and rest periods of drivers, and for a Directive of the European Parliament and of the Council amending Directive 2006/22/EC on enforcement requirements and on laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector.

A. Need for action

What is the problem and why is it a problem at EU level?

The main identified problems are:

- Inadequate working and social conditions of drivers;
- Distortions of competition between transport operators.

They derive from:

- deficiencies of the existing social road transport legislation (driving, working and resting times of drivers);
- inefficient implementation of the provisions on posting of workers in road transport.

They are also linked with the market issues of 'letterbox' companies and illegal cabotage addressed in another Impact Assessment¹. In the absence of EU intervention, these problems are expected to persist and amplify.

What should be achieved?

General objectives of the intervention are to:

- ensure adequate working conditions and social protection of drivers;
- avoid distortions of competition;
- contribute to road safety.

Specific objectives are to:

- clarify and adjust the EU social rules applicable to road transport (including on posting);
- provide for uniform interpretation and application of the rules;
- facilitate cost-effective and consistent cross-border enforcement of the social legislation;
- strengthen cooperation between Member States.

The overarching goal is to establish a balance between ensuring the protection of the rights of workers and facilitating the freedom to provide cross-border services for operators.

What is the value added of action at the EU level (subsidiarity)?

The shortcomings of the rules are unlikely to be solved without an EU action. The hitherto efforts made by the Member States and the Commission to ensure common understanding and consistent enforcement of the rules appear unsuccessful. Therefore, the EU action is justified to provide EU solution and prevent proliferation of diverging national measures. The EU added value is in providing for clear and balanced rules, their uniform implementation, application and enforcement, which is not possible to achieve at the Member States level.

B. Solutions

What are the various options to achieve the objectives? Is there a preferred option or not? If not, why?

Policy Package 1: Clarification of the legal framework & improve cooperation – measures clarifying ambiguities without substantially changing the rules and improving cooperation among enforcement authorities without significant costs impacts.

Policy Package 2: Strengthening of enforcement and changes to obligations – besides the PP1 measures, it includes the measures adapting certain rules and strengthening enforcement, which may involve some regulatory costs.

Policy Package 3: Targeted revisions of the social legislation – significant changes to the current provisions and introducing derogations for specific activities from the scope of the legislation.

Policy Package 2 is the preferred option in terms of strengthening of enforcement and clarification of the EU legal framework.

Policy Package 4 is horizontal providing for sector-specific rules on posting in transport - it contains measures on lighter administrative and control requirements and four variants corresponding to 4 thresholds of: 3 days per month (PP4a), 5 days (PP4b), 7 days (PP4c) and 9 days (PP4d) for a total accumulated duration of activities

¹ Review of Regulations (EC) No 1071/2009 on access to occupation of road transport operators and 1072/2009 on access to haulage market

carried out in host countries, below which the drivers would not fall under the full application of Posting of Workers Directive. The administrative burden is significantly reduced regardless the threshold. The compliance costs for operators are lower for higher thresholds. From the point of view of workers lower time thresholds have higher positive effects in terms of improving social and working conditions of drivers and increasing job attractiveness. Considering the various impacts of each option and the difficulty to compare them, the option to be retained is a political decision.

What are different stakeholders' views? Who supports which option?

PP1 is the least favoured option by all stakeholder groups. PP2 is largely supported by operators and drivers as measures allow for more efficient organisation of transport operations, more favourable and better adapted working and resting time requirements and more effective and uniform enforcement. The trade unions and national authorities present mixed views. PP3 is favoured by bus and coach industry (mainly large EU-15). Trade unions support only one measure of PP3 (prohibition of performance based pay) rejecting other measures. PP4 is favoured by the industry and majority of Member States due to providing clear and proportionate solutions for applying posting provisions. Trade unions and three Member States oppose the solution of time-thresholds triggering the full application of PWD.

C. Impacts of the preferred option

What are the benefits of the preferred option?

- Improvement in working and resting conditions of drivers due to more suitable and flexible rules, clarity on applicable pay rates and other social protection conditions when working abroad, better resting conditions, shortened periods away from home.
- Improvement in operators' ability to organise the drivers' work more efficiently;
- Cost savings to operators in administrative costs of around € 785 million/year
- Increase in remuneration of drivers involved in transport operations in Member States with higher pay rates;
- Legal certainty and consistency in enforcement.

What are the costs of the preferred option (if any, otherwise of main ones)?

- Small short-term increase in enforcement costs for authorities to be offset in longer term by more efficient enforcement;
- Small short-term increase in compliance and administrative costs for operators due the obligation on accommodation for regular weekly rest, a potential need for employing new drivers, applying higher wages of host Member States.

What are the impacts on SMEs and competitiveness?

Most measures are not expected to have particular impacts on SMEs. However, the obligation on accommodation for drivers and the changes to calculation of weekly working time may affect more micro-companies who have less flexibility in organising operations to avoid the increase in costs. Conversely, the expected reduction in administrative costs and compliance costs linked to the posting provisions will be more significant to small companies, in particular those from EU-13.

Will there be significant impacts on national budgets and administrations?

No, only slight short-term increase in enforcement costs offset in longer term by savings due to more efficient controls.

Will there be other significant impacts?

No environmental impacts or significant impacts on the overall level of jobs at the EU level. Synergies with the initiative on access to haulage market: 1) improved efficiency of enforcement, 2) more efficient fight against illegal employment practices.

Proportionality?

The preferred option does not exceed what is necessary to solve the original problem and to meet the objectives of the initiative. The initiative offers proportionate and balanced solution to interlinked social and competition problems.

D. Follow up

When will the policy be reviewed?

The ex-post evaluation will be carried out according to a regular policy cycle (in 5 -7 years).