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Accompanying document to the

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on the rights of passengers in bus and coach transport and amending Regulation (EC)
No 2006/2004 on cooperation between national authorities responsible for the
enforcement of consumer protection laws**

IMPACT ASSESSMENT

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1. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

1.1. Purpose

This impact assessment has been prepared with a view to examining the necessity for and desirability of establishing and/or extending the legislation granting rights to passengers in the international bus and coach sector. It focuses in particular on the three main areas of concern highlighted by the Commission in its policy documents, namely 1) the rights of persons with reduced mobility; 2) liability issues (insurance system in the event of death or injury); 3) compensation and assistance to passengers in the event of delay or cancellation.

In assessing the impacts, consideration has been given to the list of possible kinds of impact identified in the Impact Assessment Guidelines. However, as also recommended in the guidelines, the impact assessment has taken into account the principle of proportionate analysis and has focused on the most significant forms of impact and their distributive effects. Whenever possible, quantified estimates have been provided.

1.2. Consultation and expert report

Before drafting the legislative proposals and the present report, a public consultation was conducted in order to gather as many comments and suggestions as possible from the individuals and bodies concerned. This exercise complied with the minimum standards for consultation of interested parties as set out in the Commission Communication of 11 December 2002 (COM (2002) 704 final).

In July 2005 the Commission launched a public consultation based on the Commission Staff Working Paper “Rights of Passengers in International Bus and Coach Transport”. The Commission received 57 responses to the working paper from: Member State governments (14), European organisations (12), national organisations (20), companies (9) and other contributors (2).

Many of the contributions drew the Commission’s attention to the specific and distinctive features of the bus and coach sector. They mentioned a whole range of factors that set this mode of transport apart from air and rail. For example: it does not own the infrastructure or maintain contractual relations with infrastructure managers; there are more factors which could cause delays and interruption of journeys (i.e. traffic congestion, road and border checks, and waiting time at borders); services are provided mostly by small and medium-sized enterprises with limited financial means; local and regional services play a particular role; and, lastly, this mode of transport provides services close to the end-customer, adjusts quickly to needs of passengers and makes specialised services available for persons with reduced mobility.

The contributions received revealed a clear division between bus and coach operators and their associations and federations on the one hand and consumer associations on the other. As a general rule, bus and coach operators see no need - or only a very limited need - for regulation at EU level, whereas consumer associations call for extensive rights for passengers. Most of the replies received from Member States governments supported a further strengthening of protection in the bus and coach sector. However, very clear concerns were also expressed regarding the economic and organisational pattern of this industry, and there was either unanimity about the scope of regulation nor on whether to include or exclude particular types of service, in particular local and regional services.

Consumer associations feel that the level of consumer protection is far from sufficient. They consider that on-going initiatives concerning self-regulation and voluntary commitments may be beneficial for consumers, but are insufficient because they are non-binding. They believe, as a matter of principle, that bus and coach passengers should enjoy the same level of protection as passengers in other modes of transport, which is not yet the case.

One issue that is clearly of great interest is the case of persons with reduced mobility using this mode of transport. Many responses went into great detail, reflecting the depth of constructive thought which has already been devoted to solving this problem. However, there was no unanimity between respondents on the scope of the problem and the means to address it. Some operators pointed to the increased cost and limited feasibility for a whole fleet and indicated that viable alternatives do exist for disabled persons and persons with reduced mobility (specialised bus and coach companies).

The operators' main arguments are that the current economic situation does not allow any additional burden to be imposed, that there is no real need for regulation and that, in any event, a large number of issues have already been addressed, either by national legislation or

by voluntary commitments which the operators themselves have entered into. Some Member States are also concerned that any increase in regulatory burdens could result in rising fares and be passed on to consumers. This should be borne in mind, particularly when drafting a legislative proposal. Concerns were also voiced that some of the provisions for compensation in the event of delay could undermine safety. A number of stakeholders expressed a preference for simplification, harmonisation and better application of existing rules.

The consultation was concluded with the publication of the Report on the results of the public consultation and of the stakeholders' meeting held in Brussels on 30 March 2006. The consultation paper, the contributions received, a summary of these contributions and the stakeholders meeting report are available on the website “Your voice in Europe” and at the following internet address:

http://ec.europa.eu/transport/road/consultations/passengers_rights_en.htm

In July 2006, the Commission received the opinion of the European Energy and Transport Forum encouraging Community action concerning the rights of bus and coach passengers.

The Commission commissioned an impact assessment study from PricewaterhouseCoopers Italy on the establishment of the rights of bus and coach passengers. The outcome of that study, which assesses specific impacts and compares various options in the light of the objectives pursued, serves as the basis for this paper.

Other outside sources of expertise, such as previous studies carried out as part of research programmes or commissioned directly by the European Commission, are referenced in the text of the document.

An Interservice Steering Group was set up in order to guide the work of the impact assessment. The group consisted of representatives of DGs that had responded positively to the invitation from DG TREN, namely: the Secretariat General, DG MARKT, DG JLS, DG EMPL, DG SANCO, DG ENTR, DG ENV, DG ECFIN, DG RTD and DG TRADE.

The Impact Assessment was submitted to the Impact Assessment Board that issued its opinions on 7 November 2007 and 7 May 2008 in which it suggested necessary modifications and improvements of the document. These suggestions concerned more detailed analysis of subsidiarity and proportionality of the proposal including demonstration of insufficiency of present legislative framework and analysis of some of economic costs and benefits. These suggestions were incorporated into the text except for separate analysis of international and domestic services for option 2 where the cost and benefits are largely the same.

2. DEFINING THE PROBLEM

2.1. Project background

Over the last 30 years, the phenomenon of passenger mobility has increased considerably. In fact, since the 1970s it has doubled. This trend is due to several factors, but three in particular stand out: economic growth, lower travel costs and progress towards “the creation of an area without internal frontiers”¹.

However, liberalisation of transport services and the growth in travel have not always been accompanied by adequate measures to protect passenger rights. As their numbers have increased, passengers have faced difficult situations, including cancellations, overbooking,

¹ Article 2 of the Treaty on European Union

loss of luggage and delays. In addition, they are subjected to strict formalities (controls, registration) and they have already paid for their tickets. Bus and coach passengers, in particular, still do not enjoy the same passenger rights as for other modes of transport, especially air transport. Coach passenger rights are not yet covered by Community legislation, and customers therefore have to rely on national liability schemes, fair trading legislation and voluntary customer care commitments by operators. In contrast to other modes there are few international agreements concerning passenger rights in bus and coach transport that are binding on Member States.

Furthermore, for international journeys, certain issues are not always clear, such as: which national legislation applies, who has liability, and how can passengers initiate proceedings and enforce their rights before the courts in the different Member States.

The Commission has already recognised the need to extend passenger protection measures to modes of transport other than air². The outcome of the public consultation clearly proved that there was room for substantial improvement of the situation currently faced by bus and coach passengers.

2.2. What are the main problems identified

This mode of transport exhibits a number of distinctive features which affect both operators and passengers.

2.2.1. Unequal footing with other modes of transport

Passengers in other modes of transport, particularly air passengers, already enjoy a set of rights established at Community level providing for adequate protection in cases where their journey is interrupted (liability of operator for death/injury/lost and damaged baggage; compensation/assistance in the event of cancellation/delays/denied boarding).

Unlike other modes of transport there are neither international agreements (with the exception of CVR³, which has been ratified by three Member States: Czech Republic, Slovakia and Latvia) nor Community legislation establishing passenger rights. At present, in contrast to other modes of transport, coach and bus passengers are not covered by an international agreement on liability. For bus and coach services, there is an international convention, which has been ratified by only three Member States:

2.2.2. Fragmentation of legislation

Protection of bus and coach passengers varies from one Member State to another. Passengers have to rely on national liability schemes, fair trading legislation and voluntary customer care commitments by operators. Operators in some countries have developed extensive voluntary agreements, including appropriate complaint handling and dispute resolution mechanisms; however, this is not a case for the majority of Member States. This state of affairs prevents fair competition between operators from different Member States and with other modes of

² White Paper “European Policy for 2010: Time to decide” COM(2001) 370 final; “Strengthening passenger rights within the European Union” COM(2005) 46 final.

³ United Nations Economic Commission for Europe Convention on the Contract for the International Carriage of Passengers and Luggage by Road

transport. The compensation/assistance schemes in the event of an interrupted journey are not generalised across the EU.

2.2.3. *An "atomized" market*

The market is characterized by a large number of enterprises providing bus and coach transport services which offer different levels of passenger care and service quality. Passenger care varies from one operator to another and depends largely on national legislation and voluntary agreements that enterprises may have contracted. In many instances, this state of affairs prevents passengers from making informed choices as to the level of service they are likely to receive.

Generally there is little information available to passengers as to how and where they can lodge complaints, or avail themselves of inexpensive and non-cumbersome dispute resolution mechanisms in other Member States.

2.2.4. *Persons with disabilities and ageing population*

In general, passengers using this type of transport tend to be "vulnerable", i.e. on low income/geographically isolated. However, availability of bus and coach services for persons with disabilities and reduced mobility is limited, and this may hamper their integration into society. Persons with disabilities make up almost 10% of the population⁴ and persons with reduced mobility constitute an even larger percentage of existing or potential coach and bus users. Persons with reduced mobility include: persons with disabilities, the elderly, and persons with temporary disabilities.

In spite of the progress achieved in many Member States⁵, disabled persons and persons with reduced mobility are still not getting appropriate assistance when travelling or appropriate access to transport services. Furthermore, the Community and its Member States signed the United Nations Convention on the Rights of Persons with Disabilities, which provides for accessibility of, inter alia, transport facilities and non-discrimination on grounds of disability.

Due to the ageing of the population and the large proportion of disabled persons, there is a need to ensure that bus and coach services are accessible to these groups. Currently, this mode of transport is not accessible enough, except for dedicated services. However, in the near future, more and more people will be affected by disabilities and reduced mobility. The need to ensure their mobility will increase significantly.

⁴ COMM (2005) 46 final – “*Strengthening passenger rights within the European Union*”

⁵ The following countries have developed disability rights legislation within the last 15 years: Sweden (1979 and 1985): Legislation on public transport to be adapted to needs of disabled persons; Italy (1992 and 2001): Law on Assistance, Social Integration and Rights of Disabled People. (1996) Law on Accessibility of Buildings, Public Transport and Services; UK (1995 and 2005) Disability Discrimination Act (DDA); Germany (2002): Act on equal opportunities for disabled persons; Spain (2003): National Law for equal opportunities, non discrimination and universal accessibility; The Netherlands (2002): Act on Equal Treatment on the Grounds of Handicap or Chronic Illness; France (2005): Law on Equal Rights and Opportunities, Participation and Citizenship of Disabled Persons; Ireland (2005): Disability Act. Austria (2006): Disability Equality Package.

According to OECD estimates on the ageing of the population in EU 25⁶ the percentage of the population aged over 85 years will rise to 4.7 % for men and 7.6% for women in 2050 compared with 1% and 2.5% respectively in 2000.

2.2.5. *Insufficiency of the current legislative framework*

The current legislative framework creates real problems for international and domestic passengers. The cross-border problems need to be assessed primarily from the point of view of the passenger undertaking international travel. For passengers, there are big differences between bus and coach industry. In the first place, these stem from national legislation, which differs from one Member State to another, resulting in different levels of passenger protection; secondly, bus and coach transport is on an unequal footing with other modes of transport, notably air and rail, where passengers already benefit or will benefit from a high and uniform level of protection. The real cross-border problems may involve issues of applicable legislation and the competent court/body before which a passenger may claim his rights in the event of an accident or improper performance of a carriage contract etc.

Differences between liability systems in the Member States may also result in different amounts of damages received in the case of an accident. Generally there are no automatic solutions in place for the benefit of victims of accidents. Victims of accidents in another Member State tend to face a number of substantial problems: additional expenses related to medical treatment, transportation, visits by families etc. Disabled persons and persons with reduced mobility receive different levels of assistance, which makes their international travel more difficult (problems with boarding, changing from one mode of transport to another, etc. in Member States that offer lower levels of protection and assistance, thus making their journey virtually impossible when they cannot expect a comparable level of assistance at the beginning of their travel in one Member State and the end in another MS). On the basis of a public consultation with stakeholders and an impact assessment study it may be concluded that national current provisions appear insufficient as regards:

- Effective protection of passengers in the event of death and injury, as there is generally no provision in national legislation for automatic and speedy solutions, such as advance payments to cover the immediate economic needs of victims of an accident;
- Limited liability rules applicable in the case of loss or damage to luggage or mobility equipment
- Rights of people with disabilities – not all Member States have developed legislation addressing accessibility and assistance issues sufficiently. This can give rise to substantial problems in international travel where passengers with impaired mobility may receive a differing level of protection in another Member State;
- Procedures for handling complaints differ from one Member State to another: it is often unclear where and how passengers can enforce their rights in another Member State.

1.1. Who is affected?

Passengers and operators, and possibly other sectors, will be affected.

⁶ Source: OECD Demographic and Labour Force database, used in OECD(2007), Society at a Glance: OECD Social Indicators 2006 (www.oecd.org/els/social/indicators/SAG >see indicators GE2 Age dependency ratio).

2.2.6. Passengers

Within the EU15, 46.6 million passengers used bus and coach transport for international trips in 2005, amounting to 30.8 billion passenger kilometres (table 1). In total, 72.8 millions passengers accounted for 43.5 billion million passenger kilometres.

Table 1 - Volume of international passenger transport by bus and coach in 2005*

	Number of passenger (millions)	Passenger-kilometers billion
intra EU15	46.6	30.800
intra CEEC	13.1	4.800
Between EU15 and CEEC	13.1	7.900
Total	72.8	43.500

* These figures include both scheduled and non-scheduled international services.

Note: CEEC: EE, LV, LT, PL, CZ, HU, SK, SI, BG, RO

Source: TEN-STAC study results (2005)

Passengers, including disabled persons and persons with reduced mobility are affected – see point 2.2; at least 10% of the population experience disability problems or reduced mobility.

2.2.7. Bus and coach operators

The bus and coach sector employs 1.382.514 persons in 244.285 enterprises⁷ The vehicle fleet (buses and coaches) in the EU totals 723.700⁸.

The average size of companies is small; most of them have 1 or 2-10 vehicles.⁹ Overall, some 26% of companies have only one bus or coach, 50% of companies have between 2 and 10 vehicles, 22% have between 11 and 50 vehicles and 2% have more than 50 vehicles. The size distribution is similar to the size distribution in domestic transport.

European bus and coach companies providing long distance domestic and international scheduled services, and also domestic and international coach tour companies, occupy the main market segments in the bus and coach industry. See Table 2: Main market segments of the bus and coach industry

Short distance scheduled services, private hire and school transport services fall outside the scope of this impact assessment. It was estimated that in EU27 in 2004 the total revenues of enterprises offering scheduled long distance coach services amounted to EUR980.5 million¹⁰ The holidays and tours sector accounts for about 18.3% of the EU27 bus and coach industry's revenue.

⁷ EU Energy and Transport in Figures, Statistical Pocketbook 2004. No data available for some Member States

⁸ Data for 2002

⁹ Source: IRU, NEA "A study to update road transport statistics in Europe" May 2006

¹⁰ Source: PriceWaterhouseCoopers " Impact Assessment Study on the legislative proposal on the rights of passengers in international bus and coach transport" 2007

2.2.8. *Other sectors*

Bodies managing coach terminals in Member States may be affected by EU action. Depending on the option selected, they may incur part of the cost of assistance offered to disabled persons and persons with reduced mobility. The coachwork manufacture industry may experience some impacts which depend largely on the option selected. Associated costs and benefits may result from the mandatory requirement for new fleet of vehicles to be accessible for disabled persons and persons with reduced mobility. Lastly, the tourism industry will also be affected. The holidays and tour sector using bus and coach services generated total revenues of EUR10.163 billion in 2004¹¹

2.3. **Scrutiny of the EU's right to act**

The European Union has the power to act on passengers' rights issues, according to the legal basis established for either transport regulation or consumer protection. The legal basis in the field of transport policy is enshrined in Articles 70 to 80 of the Treaty establishing the European Community. Article 71 of the Treaty, in particular, states that for the purpose of implementing the transport policy, the Council shall lay down, inter alia: (a) common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States and (d) any other appropriate provisions. The establishment of the rights of passengers in other modes of transport (air, rail) was based on the Treaty provisions on transport policy. However, the European Union also exercises its powers in the field of consumer protection (Article 153, paras 1-2) or may legislate by virtue of the rules on the approximation of laws (Articles 94, 95 and 153). The choice of the legal basis is therefore largely determined by the scope and subject matter of the legislative act.

3. **OBJECTIVES AND KEY ELEMENTS OF THE PROPOSED POLICIES**

The main objectives of establishing the rights of passengers are underpinned by the general objectives of the European Union in terms of a high level of customer protection, social inclusion of different social groups and ensuring the movement of persons within the European Union.

3.1.1. *Consumer protection*

The Treaty establishing the European Union provides in Article 3 (1) (t) that the Community should contribute to the strengthening of consumer protection. In this respect, the establishment of passenger rights in bus and coach transport meets this objective. Establishment and further strengthening of the rights of passengers is in line with the high priority given by the Amsterdam Treaty to the protection of consumers. In its Communication "EU Consumer Policy strategy 2007-2013: empowering consumers, enhancing their welfare, effectively protecting their identified objectives and priorities"¹² the Commission states that one of the priorities is to put consumers at the heart of other EU policies. The Communication notes that progress has been made in the integration of consumer interests, inter alia, in air transport. The aim for the future is to build on these achievements in order to make integration of consumer interests more systematic. Therefore, the Commission is extending passenger

¹¹ Source: PriceWaterhouseCoopers " Impact Assessment Study on the legislative proposal on the rights of passengers in international bus and coach transport" 2007

¹² COM(2007)99 final

rights developed in the air sector to other transport modes, in particular in relation to passengers with reduced mobility.

3.1.2. *Cohesion*

Under the terms of the Treaty (Art. 3 (1)(k)), the Community has a duty to strengthen economic and social cohesion within the EU. Bus and coach passengers in general belong to social groups that are vulnerable in terms of income and age, but also due to disability or reduced mobility. Reinforced protection may therefore serve to improve their social inclusion. In fact, coach travel is particularly important to social groups without a car, without full time employment, those on low income, the young and the elderly. A recent survey carried out among 'National Express'¹³ customers produced the following conclusions:

- 70% of customers are not in full-time employment;
- 38% are retired or not working;
- (only) 30% are aged 25-49;
- 23% are students and 9% are in part-time employment;
- (almost) 50% do not hold a driving licence.

Furthermore, the development of international coach services is closely linked to immigration. In most cases, these migrant populations are in the low-income bracket and return to their home country at regular intervals by means of scheduled international coach services.

3.1.3. *Common Transport Policy*

Article 3(1)(f) of the Treaty stipulates that the Community should strive to achieve its objectives by means of a common policy in the sphere of transport. The rights of passengers in other modes of transport, including air and rail, have become an integral part of this policy.

The objectives should remain in line with policies managed by the European Union with regard to abovementioned objectives of the Community.

3.1.4. *Social inclusion*

With regard to combating social exclusion, the Lisbon European Council (March 2000) agreed on the need to define policies for combating social exclusion based on an open method of coordination, combining common objectives, [national action plans](#) and a [programme](#) presented by the Commission to encourage co-operation in this field. In March 2006, the European Council adopted a new framework for the social protection and social inclusion process (OMC: Open Method of Co-ordination). The proposal regarding the rights of passengers in international bus and coach services is consistent with the objectives of the OMC, as it establishes the principle of non-discrimination and assistance in respect of disabled persons. The proposal is also in line with Article 21 of the Charter of Fundamental Rights. Furthermore, it remains in conformity with Article 13 of the EC Treaty which enables the Community to combat discrimination in areas of Community competence.

¹³ National Express is the main coach company in the UK.

3.1.5. *Single market*

Lastly, the proposal would allow passengers to enjoy improved protection so as to benefit fully from the Single Market. Within the Internal Market, passengers should not only benefit from the wide range of services, but also enjoy adequate protection of their economic interests as users. This proposal ensures that citizens, including those with reduced mobility, can make full use of the benefits of the single market and have the confidence to use them. The EU consumer policy dimension is at the heart of the next phase of the internal market, as set out in the Commission's communication to the 2007 Spring European Council on the Single Market Review¹⁴. The single market generates benefits for consumers by widening choice and lowering prices, and providing adequate protection. In this respect, the establishment of bus and coach passengers' rights will complement the progress achieved in the transport sector within the framework of European Single Market.

3.2. Specific objectives pursued by the Commission

To address the problems faced by passengers, the Commission has already taken a number of policy initiatives. In the White Paper "European transport policy for 2010: time to decide" the European Commission envisaged the establishment of passengers' rights in all modes of transport. In its Communication on strengthening passengers' rights within the European Union, the Commission presented a policy approach on how to extend passenger protection measures to modes of transport other than air transport. The Commission identified the rights that needed to be strengthened by the Community action regardless of the means of transport used: a) rights of persons with reduced mobility, b) automatic and immediate solutions when travel is interrupted, c) liability in the event of death or injury of passengers, d) treatment of complaints and means of redress, e) passenger information and f) other initiatives. With regard to international coach transport, the Commission highlighted three main areas of concern: 1) the rights of persons with reduced mobility, 2) liability issues and 3) compensation and assistance in the event of interrupted travel. In particular, the specific objectives include:

- Asserting the principle of non-discrimination and assistance to disabled persons and persons with reduced mobility;
- Asserting the principle of liability of operators in the event of death or injury of passengers;
- Ensuring a level of quality standards of services, defining information obligations and asserting the principle of assistance in the event of cancellations, delays, etc;
- Setting up a procedure for handling complaints
- Ensuring appropriate enforcement.

¹⁴ A Single Market for Citizens: interim report to the 2007 Spring European Council Brussels COM (2007) 60, 21.2.2007

3.3. Key elements of the proposed policies

The table below summarizes key elements of the policy options, including their detailed scope. Further on in this paper these key elements are considered in the light of policy options and the different degrees of EU intervention are examined.

Key element of policies	Content
Principle of non-discrimination and assistance to disabled people	<ul style="list-style-type: none"> • Non-discrimination clause: reservation cannot be refused on the ground of disability/reduced mobility • Assistance with embarking/disembarking/interconnecting • A requirement to provide notification in good time; failing such notification, the operator would have to make reasonable efforts to provide assistance • Mandatory transport of mobility equipment • Care facilities at coach terminals; • Travel information in the required format; • Physical assistance at any stage; • Mandatory accessibility of buses and coaches
Principle of liability of the operators in the event of death or injury of passengers	<ul style="list-style-type: none"> • Harmonization of liability system across the EU • Unlimited liability in case of death and injury • A liability system comparable to that in air, rail and maritime transport with regard to death or injury of passengers • Claims up to a certain amount cannot be contested • Advance payments in the event of death or injury • Strict liability up to the amount comparable to air/rail transport in the event of loss of or damage to baggage.
Establishment of basic quality standards and monitoring	<ul style="list-style-type: none"> • Establishment of quality standards at the EU level • Monitoring of compliance with quality standards • Defining the set of information that should be available to passengers • Improvement of access to information on conditions of

	carriage and fares.
Cancellation, denied boarding and delays	<ul style="list-style-type: none"> • Compensation for cancellation: refund of ticket price + compensation related to ticket price or length of journey • Assistance: meals, refreshments, accommodation • Return service to the first point of departure at the earliest opportunity • Continuation or re-routing to the final destination (under comparable transport conditions) • No compensation scheme, only the obligation of bus and coach carriers to provide assistance.
Complaint handling service and monitoring	<ul style="list-style-type: none"> • Existing regulatory mechanisms plus consumer feedback • Air transport model • Operators to keep a file of all complaints received • Quality standards certificate • Independent institution at EU level.

4. DEFINITION OF DIFFERENT POLICY OPTIONS/ ALTERNATIVES

Table 3 summarises the options considered. Options 2, 3 and 4 are alternatives. It has to be noted that each of these options is available separately for every main issue identified. A combination of elements of each option for a given issue is also possible. For policy option 2 "*standard protection scenario*" the political nature of the action is the same as policy option 3 (i.e. EU action in both cases), and it also involves the use of a Community legal tool. The only difference between the two policy options is the purpose of the measure: in policy option 2 the EU legislators confine themselves to setting a general framework, whereas in option 3 the EU legislators go into all the necessary details by means of a regulation.

Table 3 Summary of options

Option 1	<p>No policy option</p> <p>No EU action, so the status quo remains intact; i.e. differing levels of protection of bus and coach passengers in the Member States continue to exist.</p>
Option 2	<p>Standard protection scenario</p> <p>Community legal act establishing a general framework laying down only minimum rules of protection and, where appropriate, consolidating/amending and/or simplifying any existing Community or national legislation (motor vehicle insurance, package tours</p>

	directive, customer legislation).
	Option I – international transport only
	Option II – both long distance domestic and international transport
Option 3	Enhanced protection scenario
	Community legal act establishing the rights of bus and coach passengers in international transport.
	Option I: international transport only.
	Option II: both long-distance domestic and international transport.
Option 4	Self-regulation scenario
	Scenario in which the bus and coach operators develop and adopt voluntary EU-wide/domestic self-regulation measures with regard to the rights of bus and coach passengers.

4.1. Option 1 - no policy option

There is no express and specific regulation at EU level covering users' rights of bus and coach passengers, apart from some special provisions for persons with reduced mobility that are contained in the Council Directive¹⁵ and some general rules on mandatory civil insurance provided by Council and European Parliament directives¹⁶. Consequently, EU citizens today, in the event of breach of contract, such as faulty performance or personal injury, are faced with different national rules, which provide different types of protection with differing degrees of efficiency. However, it may be useful to review some of the rules on consumer protection¹⁷ and package holidays¹⁸, if not to establish a complete discipline, then at least to

¹⁵ See Directive 2001/85/EC of the European Parliament and of the Council of 20 November 2001 relating to special provisions for vehicles used for the carriage of passengers comprising more than eight seats in addition to the driver's seat, and amending Directives 70/156/EEC and 97/27/EC

¹⁶ See Directive 2005/14/EC of the European Parliament and of the Council of 11 May 2005 relating to insurance against civil liability in respect of the use of motor vehicles on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles (amending Fourth Directive 2000/26/EC of the European Parliament and of the Council of 16 May 2000, Third Council Directive 90/232/EEC of 14 May 1990, Second Council Directive 84/5/ECC of 30 December 1983 and First Council Directive 72/166/EEC of 24 April 1972 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles).

¹⁷ See Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts

¹⁸ See Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours

draw up a legal framework with regard to civil liability, in particular with regard to defence against faulty performance and unfair practices. Furthermore, the EU provisions on competent jurisdiction¹⁹ and the international conventions on applicable law²⁰ can help bus and coach passengers, insofar as they are involved in international services, to bring an action correctly and to properly exercise their rights - even though the carriage contract is often not included in their scope. On the other hand, the existing rules, ranging from compensation amounts to claim procedures, resulting from the the United Nations International Convention on the carriage of passengers, might serve as a model for rules on compensation and claim procedures.²¹ But so far it has been ratified by only three Member States. The following table gives an overview of the present legislation related to protection that has an impact on bus and coach transport.

	Vehicles insurance	Package Holidays	Consumer protection	Internat. Agreement ²²	Legal procedures	Law cases
Liability for death or personal injury	√		√	√		√
Clause of exclusion due to <i>force majeure</i>				√		
Responsibility for auxiliaries or means			√	√		
Provisions for minimum amounts				√		
Provisions for maximum amounts	√			√		
Possibility of higher national limits	√		√	√		
Possibility of international agreement				√		
Cover for death or injury	√		√	√		
Advance payments for death or personal injury						
Provisions for indemnity forms						
Liability for faulty performance		√	√	√		√
Clause of exclusion due to <i>force majeure</i>		√				
Responsibility for auxiliaries		√	√	√		
Limitation for passenger fault or negligence		√		√		
Limitation for behaviour of third party		√				

¹⁹ See Council Regulation (EC) No 44/2000 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

²⁰ See Convention on the law applicable to contractual obligations done in Roma on 19 June 1980.

²¹ See Convention on the Contract for the International Carriage of Passengers and Luggage by Road (CVR), of 1 March 1973 and Protocol to the Convention on the Contract for the International Carriage of Passengers and Luggage by Road, of 5 July 1978 (CVR)

²² See “Convention on law applicable to contractual obligation” done in Rome on 19th June 1990. Unfortunately the Convention, that was signed and ratify by all Member States, does not apply to contracts of carriage, apart from, once time, contracts very similar to holidays packages.

	Vehicles insurance	Package Holidays	Consumer protection	Internat. Agreement ²²	Legal procedures	Law cases
Wilful misconduct or gross negligence of carrier			√	√		
Indemnity for passenger or baggage delays				√		
Retrieval and delivery for loss baggage				√		
Liability for lost or damaged baggage	√			√		√
Clause of exemption due to <i>force majeure</i>				√		
Exclusion for dangerous or perishable baggage				√		
Responsibility for auxiliaries or means				√		
Provisions for minimum amounts	√			√		
Provisions for maximum amounts				√		
Possibility of higher national limits	√			√		
Possibility of international agreement				√		
Responsibility for personal effects				√		
Possibility of special check for baggage				√		
General provisions on liability	√	√	√	√		
Liability for successive carriages		√				
Nullity of contrary stipulations			√	√		
Mandatory insurance against liability	√					
Mandatory system for travel guarantees		√				
Possibility for passenger to withdraw		√	√			
Cover for legal and procedural costs				√		
Provisions on claim or action	√		√	√		
Setting of time limits	√			√		
Possibility of limitation suspensions				√		
Provisions for burden of proof			√	√		
Provisions for jurisdiction	√			√	√	
Possibility of <i>forum shopping</i>				√		
Arbitration clause				√		
Provisions for <i>lis pendens</i>				√	√	

	Vehicles insurance	Package Holidays	Consumer protection	Internat. Agreement ²²	Legal procedures	Law cases
Enforcement and recognition	√		√	√	√	
Nullity of contrary stipulations					√	
Legal basis	√	√	√	√	√	√
International law		√	√		√	
Court of Justice judgment						√
Community regulation					√	
Community directive	√		√			
Non-binding Community provision						
Voluntary agreement						
National law	√			√		

4.2. Option 2 - Standard protection scenario

The traditional way to guarantee legal protection for a group of consumers, such as bus and coach passengers, is to create a common framework at European level to harmonise national laws. This may be achieved by means of a directive, as has already been done for package holidays, consumer contracts and unfair practices. A Community act on users' rights for bus and coach passengers would leave Member States free to choose the appropriate legal and administrative measures to implement passenger rights. Thus, in the impact assessment, Option 2 follows the same approach as the one taken with regard to policy option 3 "*enhanced protection scenario*" i.e. by splitting it into an "*international only*" and "*international and domestic*" option. However, these two sub-options can be analysed jointly as one option. By its very nature, this option should seek to establish common minimum rules for bus and coach transport, as the lowest common denominator. This means that there is actually no reason to expect the costs or benefits for companies to be different according to the nature of the trip (i.e. whether it is intra-Community or domestic). The costs related to long distance trips are broadly the same, whether the trip covers the 900 km distance between Barcelona and Granada (domestic) or between Barcelona and Dijon (international). Since the impact assessment includes a detailed cost-benefit analysis for the two scenarios "international only" and "international and domestic" under policy option 3, any specific cost-benefit analysis under option 2 would produce essentially the same result for these sub-options. In terms of descriptive analysis, the impact of the "international" and "international and domestic" sub-options remains broadly the same. Thus the results can be presented together in the tables.

Proportionality and subsidiarity of two sub-options.

It has become clear from the public consultations that the national legislation of many Member States does not appropriately address the issues of bus and coach passenger rights, especially with regard to interruption of journeys, assistance to disabled persons and persons with reduced mobility, and enforcement of contractual rights in domestic travel. Passengers using international services are confronted with even more complex issues and problems. At

this stage it can be noted that, by and large, the added value of Community action for international services will be the same as for domestic services. However, more passengers - especially persons with disabilities and reduced mobility - will benefit from better protection and increased quality of services. It must be stressed that applying two sets of rights to domestic and international services would create two classes of passengers and cause confusion as to the applicable legal framework and regimes for enforcing passenger rights. For example: a service Hamburg-Munich-Vienna where two passengers (one travelling to Munich and another travelling on to Vienna) would receive different levels of protection even though they are travelling on the same bus. The EP judged this to be unacceptable with regard to rail passenger rights. From the passenger's point of view, benefits are much greater by far if an EU action covers both international and domestic trips. With regard to the consequences of insufficient protection of passengers in transport services, the EU has adopted a regulation establishing the rights of passengers in air and rail transport. These measures concern liability issues, assistance and financial compensation for passengers in the event of interrupted journey, non-discrimination and assistance to persons with reduced mobility, and information to passengers. It has to be noted that these measures apply to both international and domestic services.

The public consultation of stakeholders clearly demonstrated that protection of passengers varies considerably from Member State to Member State, and in general terms, is still far from sufficient.

Judging by the example of other modes of transport, it is apparent that a real improvement of passenger protection can only be achieved at EU level. While this is true of international services, where the transborder dimension adds to the complexity of the problem, domestic services should also be subject to certain minimum requirements.

4.2.1. Rights of persons with reduced mobility

Under this option, disabled persons and persons with reduced mobility would have the right to assistance at the terminal and on board, which may include:

- assistance with check-in and registration;
- proceeding from check-in to the boarding point;
- boarding and disembarking from buses and coaches;
- luggage handling;
- stowage and retrieval of mobility devices;
- accessing connecting means of transport within the terminal when in transit;
- travel information in the required format.

Assistance for disabled persons and persons with reduced mobility should be provided at no extra cost. Disabled persons or persons with reduced mobility will be required to notify their requirements to the long distance bus carrier, its agent or the tour operator concerned at least 48 hours before the time of departure of the service. If less notice is given, the terminal manager must make all reasonable efforts to provide the assistance.

There should be a compulsory minimum set of requirements for training the operator and the terminal staff in assisting persons with reduced mobility.

4.2.2. Liability of operators in the event of death or injury

A Community act on rights for bus and coach passengers, with respect to the liability mechanism for personal injuries or economic losses, should ensure the following basic rules: minimum indemnities both for death and personal injury and for lost and damaged baggage, minimum amounts for indemnity.

4.2.3. Quality of service and assistance in case of cancellation, delays and denied boarding

The objective should be to establish minimum rules on the following: information for passengers before and during the journey; dealing with any event that interrupts a journey; rules to be observed for delays; treatment of complaints; and settlement of disputes.

Although certain carriers are already considering offering such solutions on a voluntary basis, these should be available under the same conditions throughout the Community. A competent authority would be required to monitor and enforce those rights and obligations.

In addition, it should be noted that specific rules for bus and coach journeys are already in place as part of "package" travel²³.

4.2.4. Complaint handling and enforcement

A competent body is designated at national level to deal with complaints filed by passengers. Possible administrative cost are presented in point 5.7.

4.3. Option 3 - Enhanced protection scenario (both I international and II domestic)

In order to establish complete protection of passengers' rights, a new EU regulation - which will be directly and immediately applicable - is preferable. A regulation can cover not only an international journey between at least two Member States, but also a domestic service within a single Member State. This approach has already been adopted for other modes of transport, notably air and rail, where it was apparent that the more general transport or consumer legislation is insufficient to address the issues of passenger protection. At the moment there are few Community rules that apply to bus and coach passengers.

4.3.1. Rights of persons with reduced mobility

Under this option, mandatory accessibility of the fleet of vehicles has to be considered. From a given starting date, new vehicles purchased by the European bus and coach operators will have to respect accessibility requirements set by the EU. Since for occasional services there are already companies that offer specific services for disabled persons and persons with reduced mobility, this requirement will not apply to occasional services. There are many simple features which could be included, at little cost, in the design of vehicles to make them

²³ Directive 90/314 is applicable only for holiday packages (non-scheduled services). The holiday "package" is a "pre-arranged combination of not fewer than two of the following when sold or offered for sale at an inclusive price and when the service covers a period of more than twenty-four hours or includes overnight accommodation: a) transport; b) accommodation; c) other tourist services not ancillary to transport or accommodation and accounting for a significant proportion of the package"

more accessible to the large numbers of people who currently find it difficult or impossible to use them – they include improved step dimensions, better seating and on-board audible and visual announcements. Furthermore, it has to be made possible to accommodate wheelchair users who travel while remaining seated in their own wheelchair. However it should be bear in mind that some of these issues are already regulated by the Directive 2001/85/EC of the European Parliament and of the Council of 20 November 2001 relating to special provisions for vehicles used for the carriage of passengers comprising more than eight seats in addition to the driver's seat. Therefore it's apparent that an improvement of accessibility of vehicles may be done by legislative measures on type-approval of vehicles.

The EU defines the range of facilities required at stops and terminals that has to be provided by Member States and local authorities in charge of managing the infrastructures whenever a new infrastructure is built or an existing one is refurbished or replaced.

As with option 2, there is a clause concerning non-discrimination and assistance for disabled persons and persons with reduced mobility.

4.3.2. Liability of operators in the event of death or injury

This option includes the obligation of advance payments, setting amounts under which claims for damages in the event of death or injury cannot be contested, and setting the limits for liability for loss or damage of luggage. It also covers quality of service and assistance in case of cancellation, delays and denied boarding.

4.3.3. Quality of service and assistance in the event of cancellation, delays and denied boarding

This legislative initiative can cover all types of services, both domestic and international, and be applicable to both scheduled and unscheduled occasional services.

As with air transport, coach passengers should be guaranteed an adequate level of protection. Depending on the circumstances, compensation may be required for any inconvenience caused to passengers due to the interruption, cancellation or delay of their journey, as well as denied boarding, even though this does not appear to be a frequent problem for bus and coach passengers.

For this purpose it might be useful to look at what has been done in other sectors (e.g. the aviation sector) to see whether the same system could be extended to the bus and coach transport sector, and specific measures be introduced to compensate passengers in cases of cancellation, denied boarding, delays and interruption of journey.

Once passengers have been made aware of their rights, the exercise of these rights should be made as simple as possible and Member States should introduce appropriate measures to that end.

In order to be responsive to passengers' complaints, each carrier should designate a convenient physical meeting point for lodging complaints. All customer service contact information will be provided, if possible by means of timetables, a website and any other public information sources, as well as at all accredited travel agencies. Even with such improvements, operators and passengers might still disagree on settlement. Both sides have an interest in a mechanism for settling disagreements out of court, for example through alternative dispute resolution (ADR).

Member States should provide for appropriate penalties and clearly define the treatment of complaints so that passengers know to whom they can turn. Each MS should designate a competent body to deal with complaints, as has already been done in the aviation and rail sectors; this will help passengers to exercise their rights.

One last aspect is the availability of adequate information in real time on interruptions to services (delays, cancellations, changes to timetables, etc.). Where the journey does not proceed as planned, passengers are frequently left without information; however, cancellations and delays are more readily accepted if complete information is made available promptly.

4.3.4. Complaint handling and enforcement

In order to be responsive to passengers' complaints, each carrier should designate a point for lodging complaints. All customer service contact information will be provided, if possible on timetables, on a website, and any other public information sources, as well as at all accredited travel agencies. Even with these improvements, operators and passengers could still disagree on settlement. Both sides have an interest in a mechanism for settling disagreements out of court, for example through alternative dispute resolution (ADR).

Member States should provide for appropriate penalties and clearly define the treatment of complaints so that passengers know to whom they can turn. Each MS should designate a competent body for dealing with complaints, as already exists in the aviation and railway sector; this will help passengers to enforce their rights.

4.4. Option 4 - Self-regulation scenario

In this scenario, the EU regulator could simply promote a common "soft-law" framework based on best practices and provide an improved, alternative, dispute resolution system backed up by mediation facilities. The bus and coach carriers, for their part, could undertake to adopt quality and efficiency standards, so as to:

- Provide services of a specified quality (improve punctuality, avoid cancellation and denied boarding, etc.)
- Provide care and assistance in the event of an interruption of a journey
- Provide, without surcharges, accessible transport services for persons with disabilities and reduced mobility.

Bus and coach carriers should develop a Passenger Service Commitment, following consultation with representatives of stakeholders and authorities. This code of conduct should contain commitments to deliver defined standards of services to bus and coach travellers, to describe the level of service consumers may expect from signatory carriers and to make them better informed about choices when planning their travel arrangements. Signatory carriers will in turn develop their own code of conduct, incorporating the agreed rules, establishing staff training programmes and introducing charges to implement the commitments. Under a voluntary code, carriers could undertake to adopt simple, standardised procedures for the lodging of complaints, to create effective systems for dealing with them, and to respond within a short time. They could also give passengers clear information as to where they should send their complaints.

5. ANALYSIS OF THE IMPACTS

In order to assess the economic, environmental and social impact of the proposed measures on enforcing passengers' rights, an evaluation of the impact resulting from each proposed measure will be carried out.

5.1. Economic impacts

5.1.1. Option 1 – No policy option

The analysis of available Member States' national legislation confirms the variable degree of protection offered to bus and coach passengers across the EU. This sector is not covered either by Community legislation or by international agreements.

This option basically maintains the status quo in the sector, and therefore will have no additional impact on it. Thus, no new economic, social or environmental impacts can be identified at this stage. Passengers would have to continue to rely on national legislation and voluntary schemes developed by the operators. Placing the protection of passengers on a comparable level across the European Union might prove to be a lengthy process.

However, it should be noted that this option does not correspond to the general and specific objectives pursued by the Commission in terms of ensuring a high level of protection of passengers that is comparable with other modes of transport. In the light of this consideration, the Commission has already recognised the need to extend passenger protection measures to modes of transport other than air transport²⁴. The outcome of the public consultation clearly proved that there was room for substantial improvement in the situation currently facing bus and coach passengers.

5.1.2. Option 2 – Standard protection scenario

5.1.2.1. Liability of operators in the event of personal injury or damage to baggage

Additional costs that carriers may incur relate to: minimum indemnity amounts, minimum insurance cover amounts, advance payments and legal procedures.

The following table shows the number of fatalities for road transport, specifically for bus and coach transport in urban and non-urban areas of selected European countries. There are no specific statistics on fatalities with regard to long distance bus and coach services; however, these are likely to compare to the number of fatalities registered outside urban areas. As indicated in the table the number of fatalities in 2004 when travelling by bus and coach outside urban areas was only 99 (including drivers), whereas the total number of fatalities among travellers by all modes of transport by road was 26.919 in EU14²⁵. In 2005, road fatalities for EU 25 were 41 274²⁶; it can therefore be assumed that there will also be an increase in the number of fatalities in bus and coach transport.

²⁴ White Paper “European Policy for 2010: Time to decide” COM(2001) 370 final; “Strengthening passenger rights within the European Union” COM(2005) 46 final.

²⁵ Source: CARE Database / EC (2006) data available for UE-14 without Germany

²⁶ EU Energy and Transport in Figures. Statistical pocketbook 2006.

Table 4 – Number of fatalities in transport by road and specifically by bus or coach transport (in which the fatality was travelling) and type of area by country, 2004

	Bus and Coach		All modes of transport by road
	inside urban area	outside urban area	
BE	1	4	1.162
DK	0	1	369
EL	0	8	1.670
ES	1	4	4.741
FR	0	21	5.530
IE	0	0	337
IT	9	15	5.625
LU	0	0	62
NL	0	0	1.028
AT	1	8	878
PT	0	3	1.294
FI	0	24	375
SE	1	0	480
UK	18	10	3.368
EU-14	31	99	26.919
% by area	23,8%	76,2%	

Source: CARE Database / EC (2006)

The following table shows the number of fatalities in the EU-15 Member States in 2004 per one billion passenger-kilometres, broken down by mode of transport. Both rail and bus and coach have proved themselves to be very safe modes of transport. Furthermore, it should be noted that the probability of fatalities in bus and coach transport is considerably lower than in passenger cars.

Table 5 – Number of fatalities by transport mode per 1000 million passenger-kilometres (2004 or previous year when data not available)

	Bus or Coach	Passenger car	Rail
BE	0,3	5,6	0,1
DK	0,1	3,6	0,0
DE	0,2	3,7	0,3
EL	0,4	11,4	0,0
ES	0,1	7,6	0,0

FR	0,5	4,6	0,1
IE	0,0	7,0	0,0
IT	0,2	3,9	0,2
LU	0,0	8,5	0,0
NL	0,0	3,3	0,0
AT	0,6	5,8	0,2
PT	0,3	8,0	2,2
FI	3,2	3,6	0,6
SE	0,4	3,0	0,2
UK	0,2	2,6	0,4
UE -15	0,31	4,35	0,24

Source: PwC elaboration on Eurostat and CARE Database / EC (2006)

The responsibility for calculating the amount of compensation falls to the national courts of the Member States who are responsible for settling case by case, and according to domestic law. National courts are also responsible for identifying the provider obliged to pay and the passenger entitled to damages. In this respect, the Member States are in principle free to choose the type of liability system, the mechanism of the transfer of rights and for calculating the amount of compensation. Under these circumstances, levels of compensation *per se* are not expected to rise significantly, even if action by the EU might set a minimum amount for indemnities and compensation²⁷. For higher amounts, it would simply be a matter of setting a common economic threshold, on the basis of national experience..

5.1.2.2. Disabled persons and persons with reduced mobility

Training of drivers and other staff, the provision of information and similar issues will represent other additional costs. It is difficult to provide an estimate of costs for such matters. However, it should be noted that all passengers have a need for information and for trained staff. It is therefore unlikely that there is a greater cost in providing for the needs of disabled passengers than there is for other passengers. Further additional costs for the coach operators may arise from providing care and assistance to persons with reduced mobility. It is expected that the cost will be moderate; in some cases it is difficult to give estimation of costs. Services such as assistance with boarding and de-boarding buses, luggage, stowage and retrieval of mobility devices can be provided during transfers, meal and rest stops and other times as reasonably requested. However, it has to be noted that these services can be provided directly by the driver or, in some cases, the second driver.

Similarly, the body managing the terminal should expect extra costs for providing assistance to disabled persons and those with reduced mobility when proceeding from check-in to the boarding point or during transfer. The impact on costs is likely to be reasonably moderate,

²⁷ Damages and compensations can be similar to those provided for in the Regulation 1371/2007 on rail passengers' rights and obligations e.i 220 000 euro in the event of death or injury of a passenger and 1800 euro in the event of loss of or damage to the luggage.

since assistance can be provided directly by terminal staff once they have been properly trained.

5.1.2.3. Quality standard and obligation to inform

It does not appear that the new measures will give rise to any particular significant increase of costs to the operators. The bulk of the additional activities charged to the operators could be covered by short training programmes for counter staff whose skills need to be brought up to date, and by the operator making available an internal circular at its customer contact points, or alternatively by posting up a document on the bus or coach that explains the rights of passengers under the new rules.

The table below summarizes the economic impact of the measures under option 2.

		Qualitative Description	Quantitative Description
		<i>Economic Impacts</i>	
Liability issues	Costs to coach operators	Additional insurance costs for compensations in event of death or injury of passengers	Moderate additional cost. Member States already have compulsory liability schemes in case of death or injury of passengers.
		Additional insurance costs for loss/damage of luggage or other personal effects, such as assistive devices like wheelchairs	Moderate additional cost.
Disabled persons and persons with reduced mobility	Costs to coach operators	Increase in operating costs for providing care and assistance to disabled persons and persons with reduced mobility	Little or no impact. These services can be provided directly by either the driver, or the second driver .
		Increase in operating costs for staff training	Moderate additional costs. Providing training to staff for the needs of disabled persons and persons with reduced mobility is unlikely to cost more than for other passengers.
	Costs to infrastructure managers	Additional costs for the provision of appropriate infrastructure and facilities for the needs of disabled persons and persons with reduced mobility	Costs vary very considerably from simple stops to large terminals. Cost will be lower if work is carried out as part of routine refurbishment or maintenance. Cost impossible to estimate

	Additional revenue for coach operators	Modest increase in travel due to wheelchair users alone	Increase of 0.5% of total coach passengers Additional revenue EUR1.63 mln per year
		Modest increase in travel by other disabled persons and persons with reduced mobility categories	Difficult to estimate. Travel may increase up to 2 or 3 %
	Additional revenue for tourism industry	Accessible international scheduled services will boost demand for tourism services by disabled persons and persons with reduced mobility.	Potential demand for accessible tourism accounts for 400 000 journeys per year. (incl. accompanying persons) Additional revenues to the industry of EUR264m . per year
Quality standard and information obligation	Costs to coach operators	Increase in costs	Low costs. Slight increase in training costs and printing information. Moderate administrative costs for operators related to information obligation and handling complaints. Impact on occasional services industry will be limited because there are already specific rules for bus and coach journeys which are part of package travel

5.1.3. Option 3.I - Enhanced protection scenario (international only)

5.1.3.1. Liability of operators in the event of personal injury or damage to baggage

The effects are the same as those analysed in option 2. Additional effects in the area of advance payments have been analysed. A compulsory system that provides for advance payments in the event of physical or fatal injuries to passengers traveling by bus or coach is neither established by European rules nor provided by the relevant national law, at least not with general application in all circumstances. On the one hand, there is no reason to exclude this kind of disbursements from the insurance schemes and, on the other hand, any advance payment to be included in an indemnity framework is not to be considered a preventive declaration of liability. In this last respect, within the common liability system, which is traditionally based on some kind of intentional or negligent conduct, any advance payments, on behalf of carriers or insurer, are supposed to represent only a portion of overall final amount to be disbursed in the event of fault by the carrier or auxiliaries. However, if the liabilities of the carrier or auxiliaries are excluded, reimbursement can be claimed from the

person entitled to the advance payment. This kind of advance payment scheme involves no significant additional costs to transport providers. An advance payment mechanism could also work under a strict liability system, where the carrier, even when not at fault, should be always deemed responsible by law, at least up to certain legal thresholds, which correspond to advance payment amounts. In this case the provider is not entitled, even afterwards, to dispute the sum or to claim reimbursement. The advance payment, which has to be paid whatever the circumstances but can never be reimbursed, could create additional costs for transport providers, if it also covers situations where the carriers' or auxiliaries' conduct was not in any way intentional or negligent. Within both liability schemes the effects of an advance payment system are the same as under *force majeure*. In the case of common liability it would not be for the passenger to establish fault, while in the case of strict liability there would be a carrier's liability established by law; in any situation of *force majeure*, once the fixed sum has been paid, the provider is never entitled to any reimbursement. Statistically, the practical impact of these circumstances, such as natural disasters or legal impediments, can be regarded as insignificant. Furthermore, the economic impact of the provision also depends on the actual scope of the rule, i.e. whether an advance payment is limited to the case of the most severe personal injuries, as commonly experienced, or applies broadly to all serious wounding, with the aim of making the initial medical expenses affordable to the passenger. Under these circumstances, transport operators are likely to look for appropriate insurance schemes to cover the risk related to events for which advance payment is due. However, given the limited number of such events and the supposed value of these advance payments²⁸, the premiums are expected to be very low.

5.1.3.2. Disabled persons and persons with reduced mobility

Estimation of additional costs for operators

Many of the features intended to improve accessibility on coaches cost very little and can provide benefits for disabled persons and those with reduced mobility. Items such as the provision of colour-contrasted handrails, clear marking of steps, signage and communications, and having at least some seats with more suitable dimensions, can be of great help to persons with sensory or mobility impairments. It is estimated that such features will generally cost no more than EUR1 000 per vehicle, which is a moderate expense in relation to the total cost of a coach, but could help to significantly increase capacity in terms of the number of passengers. There are two main areas of cost in making coaches fully accessible, including wheelchair access: these are the loss of seats (a revenue cost) and the costs of lifts for wheelchair users (a capital cost). There are some further costs associated with maintenance of the lift and the removal and replacement of seats in the wheelchair space, but these are smaller and can be left out of consideration. Providing one wheelchair space means losing at least four passenger seats. On scheduled coach services it is assumed that, for practical reasons, the vehicles will always operate with the wheelchair space available, so the loss of seats is “permanent”. On the basis of the outcome of the study Cost 349 it can be assumed that the additional costs may amount to 2.7 % of total industry revenue.

On non-scheduled services, such as holidays and tours, passengers usually book well in advance. This gives the operator time to fit seats in the wheelchair space if no booking has been made to use it. Thus, the loss of revenue is likely to be less than for scheduled service

²⁸ In the case of rail transport the advance payment in the in the event of death is never less than 21.000 EUR.

operators. As mentioned earlier, since advance booking is normal in this sector, the dedicated wheelchair space - when not used - can be replaced by four seats; therefore, the loss of revenue would be less, and has been estimated at approximately 0.2%.

Cost to coach terminals

The measures under consideration do not involve major modifications of existing coach terminals and associated infrastructure, except for the designation of arrival points at terminals where passengers can notify their arrival and the need for assistance. Furthermore, accessibility requirements for the built environment are enshrined in Member States' national legislation. Thus, the managing body of the terminal should expect extra costs for providing assistance to disabled persons and persons with reduced mobility when proceeding from check-in to the boarding point, or during transfer. The impact on costs should be reasonably modest, since assistance can be provided directly by terminal staff once they have been properly trained. Further costs may be incurred in training of the staff and the provision of information. However, all passengers need and will benefit from well trained staff and accessible information. It is unlikely that the cost of training in providing assistance for disabled persons will be higher than for other passengers. The COST 349 study concludes that it is impossible to give an indication of representative costs for such matters.

A growing number of disabled persons are travelling

The provision of fully accessible coaches can be expected to lead to an increase in the number of disabled persons, including wheelchair passengers, using coach services. In the EU, some 44.6 million persons – or one in six persons aged between 16 and 64 - have a longstanding health problem or disability²⁹. Persons with disabilities represent at least 16% of the overall EU population of working age. In the case of the UK, wheelchair users account for about 1.4% of the population as a whole; previous research has indicated that, even when transport is fully accessible, wheelchair users travel only about 40% as much as their non-disabled peers³⁰. There are no official statistics available on the number of wheelchair users in EU27; however, it can be assumed that in the EU27 - as in the UK - wheelchair users make up around 1.4% of the whole population (about 6.87 million persons). This logic suggests that a modest increase in journeys, attributable to wheelchair users alone, could amount to approximately 0.5% of total coach passengers. Making coaches fully accessible will benefit far more potential passengers than just wheelchair users; however it is impossible to make any meaningful estimates of the increase, although a increase of at least 2-3% is likely.

The additional revenue for domestic and international services due to the increase in travel by wheelchair users alone is expected to be 0.5%, which represents about EUR55.72 million per year. The additional revenues for international services alone are estimated at EUR8.14 million per year.

Summary of additional costs and revenues

The following table summarises the costs and benefits deriving from the introduction of fully accessible coaches in the domestic and international long distance scheduled and unscheduled bus and coach industry in EU27.

²⁹ Situation of People with disabilities in the EU: Key figures (European Commission C, DG Empl, Unit G3)

³⁰ COST 349 Report

The estimated additional costs are expressed in EURm per year and as a percentage of total industry revenue for the two sectors under review:

Table 6 – Summary of additional costs and revenues from the provision of fully accessible coaches

	Domestic and International (Euro million)	Only international (Euro million)	% on total industry revenue
Total additional costs	297,6	44,92	2,7%
<i>Loss of revenue from removal of seats</i>	30,1	5,87	0,3%
<i>Annualised costs of provision of lift and other related costs</i>	267,4	39,1	2,4%
Additional revenue due to increase in travel	55,7	8,1	0,5%
Net revenue loss	241,8	36,8	2,2%

Source: PwC elaboration on COST 349, Eurostat and other sources (2004)

Additional costs to be borne by the coach operators are estimated to amount to 2.7% of the total industry revenue for the two sectors in question. The additional revenue (0.5% based on wheelchair users alone) would reduce this shortfall to approximately 2.2%. This is the measure of the net cost to the industry of providing fully accessible coach services, and may prove in time to be an underestimate of the increased travelling, because it does not take into account the likelihood of an increase in travelling among older persons and other categories of persons with reduced mobility. Furthermore, it should be noted that, during the initial period, real costs for the operators will be slightly lower since the process of replacing old vehicles with new, fully accessible vehicles will take several years. It seems certain that the introduction of full accessibility of vehicles will result either in an increase of costs, and therefore a reduction in operating margins for the coach operating industry, or in an increase in passenger fares, unless this is offset by other measures taken by the EU. In the worst case scenario, carriers will choose to fully cover additional cost with an average increase in fares of 2.2%, which will allow them to balance the estimated revenue loss. There are no official statistics available at European level on ticket prices for long distance services. It has been estimated that, in 2006, the average fare for a long distance scheduled trip by coach in the UK was EUR15.79³¹. Assuming the abovementioned fare increase of 2.2%, the average expected rise in the ticket price is EUR0.35. It is worth remembering that, initially, the loss of revenue to the industry will be less than 2.2%.

Impacts on the coach manufacturing industry

³¹ This figure was estimated on the basis of Annual Review and Financial Statement Document for the year 2006 of National Express Group Plc. National Express is the largest scheduled coach service provider in Europe. The Company operates a network of scheduled coach services to almost 1.000 destinations within the UK, including all of the major UK airports. It carries over 19 million passengers each year and operates 500 distinctive coaches in the UK and Europe. In 2006 the Grop revenue for this market segment were 207,3 £mln. (300 EURmln.). The estimation of the average ticket price was obtained dividing total company revenue by passenger number.

Developing internal demand for new coaches that provide full access for wheelchairs will have a direct impact on the European coachwork manufacture industry. Additional costs for typical wheelchair-accessible vehicles with a seating capacity and specification comparable to that of an equivalent non-wheelchair accessible vehicle are estimated to be EUR19 150³².

In EU27, the average industry turnover in coachwork manufacturing per person employed³³ is estimated to be roughly EUR178 700³⁴. It can therefore be assumed that, for every nine fully accessible coaches produced, one additional full time employee equivalent unit will be created.

Table 7 – Impacts on coach manufacture industry in terms of additional revenue and employment

	Stock of vehicles (2005)	New registration	Manufacture ind. additional revenue	Additional employment
	no.	no.	thousand Euro	FTE unit
Scheduled Long Distance	9.653	643	12.316	69
<i>Domestic</i>	6.465	431	8.248	46
<i>International</i>	3.188	212	4.068	23
Holidays and tours	99.563	6.634	127.032	711
<i>Domestic</i>	86.942	5.793	110.929	621
<i>International</i>	12.621	841	16.103	90
Total	109.216	7.277	139.349	780
<i>Domestic</i>	93.406	6.223	119.178	667
<i>International</i>	15.809	1.053	20.171	113

Source: PwC elaboration on Eurostat and other sources (2007)

The gradual replacement of old vehicles by fully accessible vehicles will generate an annual increase in revenue of EUR139.3 million in the coachwork manufacture industry revenue.

Impacts on the tourism industry

The size of the market for accessible tourism has been estimated at 127.5 million persons in Europe³⁵. This figure takes into consideration not only disabled persons, but also older persons, families with small children, and persons with short-term or chronic ailments. However, not all these citizens have either the economic and/or physical ability to travel.

³² COST 349 Report: Annex 20 “Investment plan for local transport in the Piemonte Region, Italy, for the period 01/01/03 to 31/12/06”.

³³ Number of employee in full time equivalent.

³⁴ This figure refers to NACE DM342 sector that include manufacture of bodies (coachwork) for motor vehicles and manufacture of trailers and semi-trailers (Annex I Market Analysis).

³⁵ One-Stop-Shop for Accessible Tourism in Europe (OSSATE): “Accessibility Market and Stakeholder Analysis” (20th of October 2005).

Thus, in estimating the potential size of the market, it is assumed that 70 % of disabled persons are physically and financially able to travel³⁶. On average, coach travel represents 7.6% of all trips of four nights or more made by European tourists³⁷. Thus, we can assume that the potential demand for accessible tourism by coach accounts for 6.8 million trips per year. In addition to this, persons with disabilities seldom travel alone. On average, 59% of European families have a family member who is disabled and 38% of the European population have a friend with a disability³⁸.

Assuming a multiplier effect of 0.5³⁹, which means that half of the population with accessibility requirements will have at least one person travelling with them once a year, the total potential travel market is 10.2 million. Considering that the average expenditure per holiday in Europe in 2005 was EUR620⁴⁰, the expected additional revenues will amount to EUR 6.308 million.

Assuming that, on average, disabled persons take more than one holiday per year, travel with other family members or friends and would travel even more if they could find more information and more accessible sites, a multiplier effect of around two can be factored in⁴¹. If a multiplier effect of 2 is accurate, the potential travel market would rise to over 260 million. The following table shows the calculations for both multiplier effects.

Table 8 – Potential market for accessible coach tourism

General demand for accessible tourism	70% that have the economical and physical ability to travel	7.6% will use a coach to travel	Multiplier effect for accompanying friends and family	Accompanying friends and family	Total potential accessible tourism travelling by coach	Average expenditure per person per holiday	Potential additional tourism revenues
127.5 million	89.3 million	6.8 million	0,5	3.4 million	10.2 million	620 EUR	EUR6.308 EURm
			2	13.6 million	20.3 million		EUR12.616 EURm

Source: PwC elaboration on OSSATE and Eurostat (2005)

Depending on the multiplier used, the estimates of additional tourism revenues range from EUR6.308 million to EUR12.616 million. Potentially, this is a huge market and one which will continue to grow due to the ageing of the population.

5.1.3.3. Compensation and assistance in case of cancellations, delays and denied boarding

The cost of compensating and assisting passengers is unlikely to be excessive. Nevertheless, the effects on revenue and profits are unlikely to be significant, and also the impact on the

³⁶ Deloitte Touche “Tourism for All in Europe” (1993)

³⁷ Eurostat: “Statistics in focus - How Europeans go on holiday” (2006)

³⁸ Eurobarometer (2001) Attitudes of Europeans to Disability.

³⁹ This multiplier is consistent with assumption made by Deloitte Touche “Tourism for All in Europe” (1993).

⁴⁰ Eurostat: “Statistics in focus - Tourism in the Enlarged European Union” (2005).

⁴¹ This multiplier is consistent with assumption made by OSSATE: “Accessibility Market and Potential tourism revenues ranging between 83 billion Euro and 166 billion Euro Stakeholder Analysis” (20th of October 2005).

competitiveness of Community companies should be slight, as all operators involved in the sector would be covered.

As has been explained in more detail earlier in the text, the phenomenon of denied boarding for overbooking does not seem to be especially significant in the context of passenger transport by bus and coach.

Cancellations seem to occur more frequently. However considering that the average cost of a ticket can be between EUR10 and EUR70 according to the distance travelled, and considering that the possible compensation amounts to 100% of the price paid for the ticket, this suggests that this type of case does not have a significant economic impact. Additionally, increased level of compensation will provide operators with incentives to offer better quality of service and assistance to passengers. Thus the number of passengers claiming compensation will decrease. The same has proven true in the aviation sector in relation to compensations for denied boarding. The economic impact of the application of the new measures - even in this case - should be quite slight. The circumstances in which operators are excluded from liability in the case of delays and cancellations may effectively reduce the economic impact of these measures.

Therefore, there should be no significant effect on employment, investment or the creation of new business.

Nevertheless, operators can expect an increase in staff and training costs, along with a possible slight increase in ticket price without any decrease in passenger demand.

5.1.3.4. Quality of service and information obligation

The effects are the same as those analysed in option 2.

5.1.3.5. Complaint handling service and monitoring

The process of managing the settlement of disputes is not expected to lead to any major additional economic burdens for the operators. The approach should provide for a review of internal procedure so as to guarantee that written feedback is provided quickly and efficiently to the traveller submitting the complaint.

The table below summarizes the economic impact of option 3.I

		Qualitative Description	Quantitative Description
		<i>Economic Impacts</i>	
Liability issues	Costs to coach operators	Additional insurance costs for compensations in event of death or injury of passengers	As with option 2 above
		Advance payments for death or personal injury of passengers	Significant additional cost (but easily affordable by means of insurance forms or guarantee systems)

		Additional insurance costs for loss/damage of luggage or other personal effects such as assistive devices like wheelchairs	As with option 2 above.
Disabled persons and persons with reduced mobility	Costs to coach operators	Increase in operating costs for providing care and assistance to disabled persons and persons with reduced mobility	Small impact. These services can be provided directly by either the driver or second driver.
		Increase in operating costs for training the staff	Moderate additional costs. It is unlikely that the cost of providing training to staff for the needs of disabled persons and persons with reduced mobility is greater than for other passengers.
	Costs to infrastructure managers	Additional costs for the provision of appropriate infrastructure and facilities for the needs of disabled persons and persons with reduced mobility	Costs vary very considerably from simple stops to large terminals. Cost will be lower if work is carried out as part of routine refurbishment or maintenance. Impossible to estimate.
	Additional revenue for coach operators	Additional costs for the provision of appropriate infrastructure and facilities for the needs of disabled persons and persons with reduced mobility	As with option 2 above.
		Modest increase in travel due to wheelchair users alone	As with option 2, but the same increase in travel (+0.5%) is also expected with occasional services. As with option 2, but with additional revenue due to occasional services (EUR6.50m). Total additional revenue = EUR8.14m per year
	Additional revenue for tourism industry	Modest increase in travel by other disabled persons and persons with reduced mobility	As with option 2 above, but travel is also likely to increase with occasional services.
	Additional revenue for coachwork manufacture	Developing of internal demand for new coaches	As with option 2, but with additional demand for

	industry	that provide full access for wheelchairs	841 fully accessible vehicles per year to be used on occasional services. Total demand = 1.053 vehicles per year As with option 2, but with additional revenues due to vehicle to be used on occasional services (EUR16.10m per year). Total additional revenue = EUR20.17m per year
Assistance and compensation in the event of delays, cancellations	Costs to coach operators	Increase of costs for compensation and assistance in case of cancellations, delays and denied boarding	Costs slightly higher than option 2 above, because of a more precise definition of rules.
Quality standard and information obligation	Costs to coach operators	Increase of costs	Low costs. Slight increase in costs for training and printing of information. Moderate administrative cost related to information obligation. Impact on occasional services industry will be limited because there are already specific rules for bus and coach journeys that are part of package travel
Complaint handling	Costs to coach operators	Complaint handling service and monitoring	Low costs. Slight increase in operating costs due to the implementation of new procedures

5.2. Option 3.II - Enhanced protection scenario (both international and domestic)

Although option 3.II covers the same subject matter as option 3.I, its scope extends to domestic long distance services; in this way, more operators/routes will be covered. Therefore the description of the the sub-option 3.I holds true for this sub-option.

		Qualitative Description	Quantitative Description
		<i>Economic Impacts</i>	
Liability issues	Costs to coach operators	Additional insurance costs for compensations in event of death or injury	As with option 3.I above, but a larger number of operators will be affected.

		of passengers	
		Advance payments for death or personal injury of passengers	As with option 3.I above, but a larger number of operators will be affected.
		Additional insurance costs for loss/damage of luggage or other personal effects such as assistive devices like wheelchairs	As with option 3.I above, but a larger number of operators will be affected.
Disabled persons and persons with reduced mobility	Costs to coach operators	Increase in operator's costs for providing fully accessible vehicle to be used on international scheduled and occasional services.	<p>For scheduled services: loss of up to 4 seats per trip (-1% on revenues) as in option 2.</p> <p>In addition a loss of up to 4 seats per trip on occasional services when the need for wheelchair accommodation is notified (-0.2% on revenues).</p> <p>As with option 3.I with additional loss of revenue up to EUR24.26m per year due to domestic services. Total revenue loss = EUR30.13m per year)</p>
			<p>As with option 3.I, but with increase on capital costs extended to operators on domestic market</p> <p>As with option 3.I with additional revenue loss up to EUR228.38m per year due to domestic services.</p> <p>Total additional capital costs EUR267.38m year</p>
		Increase in operator's costs for providing care and assistance to disabled persons and persons with reduced mobility	As with option 3.I above, but a larger number of operators will be affected.
	Costs to infrastructure managers	Additional costs for the provision of appropriate infrastructure and facilities for the needs of disabled persons and persons with reduced	As with options 2 and 3.I, but terminals and stops used only for domestic services will also need to be adapted/refurnished

		mobility	
	Additional revenue for coach operators	Modest increase in travel due to wheelchair users alone	As with option 3.I, but same increase in travel (+0.5%) is also expected with domestic services. As with option 3.I, but with additional revenue due to increase in travel in domestic services (EUR47.58m). Total additional revenue = EUR55.72m per year
		Modest increase in travel by other disabled persons and persons with reduced mobility categories	As with option 3.I above, but travel is likely to increase also with domestic services.
	Additional revenue for tourism industry	Accessible international and domestic services will boost demand for tourism services by disabled persons and persons with reduced mobility.	Compared to option 3.I, potential demand for accessible tourism is significantly higher = 10.2 million journeys per year (with accompanying persons). Total additional revenue EUR6.308 mln per year
	Additional revenue for coachwork manufacture industry	Additional costs for the provision of appropriate infrastructure and facilities for the needs of disabled persons and persons with reduced mobility	As with options 2 and 3.I, but terminals and stops used only for domestic services will also need to be adapted/refurnished
Assistance and compensation in the event of delays, cancellations	Costs to coach operators	Increase of costs for compensation and assistance in case of cancellations, delays and denied boarding	As with option 3.I above, but a larger number of operators will be affected.
Quality standard and information obligation	Costs to coach operators	Additional costs	As with option 3.I above, but a larger number of operators will be affected.
Complaint handling	Costs to coach operators	Additional costs	As with option 3.I above, but a larger number of operators will be affected.

5.2.1. Option 4 - Self-regulation scenario

Under this option, the EU will promote a common "soft law" framework, based on best practices, to persuade bus and coach operators to develop and adopt voluntary EU-wide/domestic self-regulatory measures with regard to the rights of bus and coach passengers. At this stage, it is difficult to compare this option against the others in terms of expected economic impact, since the available literature does not allow a reliable quantified estimate of how far operators are complying with voluntary agreements..Generally, it may be assumed that the possible economic impact of these voluntary commitments will be counterbalanced by increase of confidence of passengers and attractiveness of this mode of transport.

Some idea of whether this policy option is likely to honour the commitment by bus and coach operators to a voluntary agreement can be gained from the EUSG Report on “Evaluation and monitoring of trends with regard to passenger needs on the level of service and treatment of passengers”. The report provides a table showing the perception of passenger rights' charters and guarantees, and their implementation by consumers and industry. The results are set out below:

Table 9 Country comparison: Evaluation of charters and guarantees

Country	Points	Country	points	Country	points
Austria	0.5	Greece	1.0	Poland	0.5
Belgium	1.0	Hungary	0.5	Portugal	1.0
Cyprus	1.5 (x)	Ireland	2.0	Slovakia	1.0
Czech Republic	1.5	Italy	0.5	Slovenia	1.0
Denmark	2.0	Latvia	1.0	Spain	1.0
Estonia	1.0	Lithuania	1.5 (x)	Sweden	2.5
Finland	1.5	Luxembourg	0.5	United Kingdom	2.5
France	2.0	Malta	1.0		
Germany	2.0	Netherlands	1.5		

(x) = no information available to evaluate this criterion

Source: EUSG – Evaluation and monitoring of the impact of trends with regard to passengers' needs on the level of service and treatment of passengers

The statements collected are influenced by the interviewer’s general expectations, perceptions of the situation and the standard in the country itself. All respondents had an opinion on charters and guarantees, although the number and quality of schemes in each country varies considerably.

The trade associations have conceded that so far implementation has been somewhat difficult. This state of affairs is particularly striking when one considers the great effort that governments have put into these documents, both formally (obligation to produce, update

them and submit copies to the Ministry) and in terms of their design (detailed template for each public sector and each mode of transport)⁴².

Finally, with regard to voluntary agreements, lessons learned from previous experience in regulating the air transport sector should provide valuable information on the chances of success of such types of agreement. In the case of air transport, the development of voluntary commitments and their correct application eventually turned out to be quite limited. This prompted the EU to introduce compulsory rules in order to oblige the operators to ensure air passengers' rights.

5.3. Social impacts

5.3.1. Option 1

No new social impacts are expected with option 1.

5.3.2. Option 2

Passengers making bus and coach journeys will benefit if the quality of service is improved. They will also have the benefit of assistance if they experience inconvenience during the journey. Disabled passengers will also receive more assistance than is currently the case. Their mobility will increase significantly. Thanks to the proposed measures it will be possible to achieve an important social objective, namely for people with reduced mobility to enjoy comparable opportunities for road transport. Without such opportunities, they would lose not only direct travel benefits, but also the indirect benefit of full inclusion in economic and social life; for example, they would not be able to travel for work, visit family and friends or go on holiday like other citizens. In this context, the problem of ageing of the population will be addressed, whereby a increased demand from services from elderly persons should be matched by an appropriate provision of services.⁴³

<i>Social Impacts</i>		
Employment	Positive impact on employment in the tourism industry due to an increase in holiday travel by disabled persons and persons with reduced mobility	Creation of up to 5 900 FTE additional employment per year in hotels and restaurants
Social Inclusion	Increased accessibility to transport services for disabled persons and persons with reduced mobility	10% of EU population could benefit

⁴² EUSG – Evaluation and monitoring of trends with regard to passenger needs on the level of service and treatment of passengers

⁴³ See OECD Demographic and Labour Data Base: OECD Social Indicators 2006: GE2 Age dependency ratio

	Better protection of passengers' rights in case of death, injury, etc.	Passengers will benefit from better legal protection (see liability) and greater economic security (see insurance). This will implement the right of EU citizens to move freely
	Reimbursement in the case of lost or damaged luggage	It will be made easier for passengers to be refunded when their luggage is lost or damaged
	Compensation for passengers in case of cancellation, delay, etc.	Passengers might be eligible for compensation. This will give operators an incentive to meet quality standards
Higher fares	Costs of compliance are likely to be passed on to passengers in the form of higher fares	Travel would be more difficult for social groups on low incomes. However, the impact on fares is not expected to be high.

5.3.3. Option 3.I

Employment impacts

The provision of fully accessible coaches can be expected to result in an increase in the number of disabled persons, including wheelchair passengers, that use coach services. However, the modest increase in the number of trips by wheelchair users alone is unlikely to lead to an increase in the number of services provided by the operators. Therefore, impacts on the level of employment in the coach industry are not expected.

Tourism industry

Better accessibility of bus and coach services will have a positive impact on the tourism industry, including in terms of the number of persons employed. The following estimates were based on the average turnover of EUR44 600⁴⁴ per person employed in hotels and restaurants in 2004:

Table 10 – Potential additional employment in the tourism industry (thousand FTE)

	Additional Employment (thousand FTE)
A. Scheduled Long Distance	12,4
<i>Domestic</i>	6,5
<i>International</i>	5,9
B. Holidays and tours sector	129,0
<i>Domestic</i>	67,6

⁴⁴ Eurostat Database: NACE H Hotels and Restaurants, year 2004, EU27

<i>International</i>	61,4
Total A. + B.	141,4
<i>Domestic</i>	74,1
<i>International</i>	67,3

Source: PwC elaboration on OSSATE (2005) and Eurostat (2006)

Coach manufacture industry

Gradually replacing old vehicles with fully accessible vehicles will increase the revenue of the coachwork manufacture industry by EUR139.3 million per year. Increasing production in this manufacturing sector in EU27 will generate extra jobs, which we have quantified at 780 FTE per year

The table below summarizes the social impact of this option.

<i>Social Impacts</i>		
Employment	Positive impact on employment in tourism industry due to an increase in holiday trips by disabled persons and persons with reduced mobility	As with option 2 above, but further increases in holiday trips due to accessible occasional coach services will create 61 400 FTE. Total additional FTE = 67 300 FTE.
	Growth of internal demand for new coaches that provide full access for wheelchairs	As with option 2, but further creation of up to 90 FTE additional jobs per year in the coachwork manufacture industry. Total additional FTE employment = 113 per year
Social Inclusion	Increased accessibility to transport services for disabled persons and persons with reduced mobility	As with option 2, but 10% of EU population might also make use of occasional services
	Better protection of passenger rights in case of death, injury, etc.	As with option 2, but passenger will also benefit from advanced payments and better legal protection.
	Reimbursements in case of luggage loss or damaged	As with option 2 above
	Compensation for passengers in case of cancellation, delay, etc.	As with option 2, but rules of protection will be better defined.
Higher fares	Costs of compliance are likely to be passed on to passengers in the form of higher fares	As with option 2 or slightly worse

5.3.4. Option 3.II

The impact of the measures under option 3.II may be greater than under option 3.I because these measures could also be extended to long-distance domestic bus and coach services. The table below summarizes the social impact of this option.

<i>Social Impacts</i>		
Employment	Positive impact on employment in tourism industry due to an increase in holiday trips by disabled persons and persons with reduced mobility	As with option 3.I above, but further increases in holiday trips because domestic bus and coach services will create 74 100 FTE. Total additional FTE = 141 400 FTE.
	Developing of internal demand for new coaches that provide full access for wheelchairs	As with option 3.I, but further creation of up to 667 FTE additional employment per year in coachwork manufacture industry. Total additional FTE employment = 780 per year
Social Inclusion	Increased accessibility to transport services for disabled persons and persons with reduced mobility	As with option 3.I, but 10% of EU population might benefit also of domestic services
	Better protection of passenger rights in case of death, injury, etc.	As with option 3.I, but passengers on domestic journeys will also benefit
	Reimbursements in case of luggage lost or damaged	As with option 2 and 3.I, but passengers on domestic journeys will also benefit
	Compensation for passengers in case of cancellation, delay, etc.	As with option 3.I, but also passengers on domestic journeys will benefit
Higher fares	Costs of compliance are likely to be passed on to passengers in the form of higher fares	As with option 3.I, but also passengers on domestic journeys will be affected.

5.3.5. Option 4

Under this option the EU will promote a common "soft-law" framework based on best practices to get bus and coach operators to develop and adopt voluntary EU-wide/domestic self-regulatory measures with regard to the rights of bus and coach passengers. At this stage it is difficult to compare this option against the others in terms of expected social impact, since it is not possible on the basis of the available literature to make a reliable quantified estimate of the degree to which operators comply with voluntary agreements.

5.4. Environmental impacts

Not all options under consideration are directly related to environmental issues. However, these measures may involve increases or decreases in passenger transport demand, and therefore a possible modal shift that could have some environmental impacts.

Environmental Impacts

Possible increase in pollution	Higher fares for coach services may cause a modal shift to low cost airlines, cars and railways.	Difficult to estimate, since modal shift can both have both positive and negative impact on pollution
Possible decrease in pollution	Better protection of passengers' rights might encourage more European citizens to take international coach journeys	Difficult to estimate. Possible increase in travel might be outweighed by increase in fares. Modal shift is likely to be slight. Therefore environmental impacts are not expected.

The proposed measures might encourage more European citizens to take long distance journeys by bus and coach in Europe if there is no increase in ticket price. This might bring associated environmental benefits when compared against journeys by car. However, it is not certain that there would be net benefits in this area. There is possibly a general expectation that the costs of compliance would be passed on to passengers in the form of higher fares, making international and or long distance services less attractive overall.

The following table gives an overview of the results of a survey conducted on a small number of European bus and coach operators, mostly offering scheduled services. Operators were asked to indicate the competitive strengths of other modes of transport compared to their own sector. Each mode of transport was rated on a competition scale from 1 (no competition) to 10 (extremely strong competition) .

Table 11- Coach Competitor Rating

Modal Competitor	Rate
Private cars	6.50
Railways	6.00
Low cost airlines	8.25
Coach operators from EU15 countries	5.25
Coach operators from EU10 countries	5.00
Coach operators from Non-EU countries	3.25

Source: NEA survey of IRU members (2006)

The table shows that low cost airlines are regarded as the most important competitor to bus and coach transport. Competition from private cars and railways is considered to be a minor threat compared to competition by low cost airlines.

Better protection of passenger rights is likely to lead to an increase in demand for bus and coach transport that will mainly impact on low cost airlines and, to a lesser extent, on private cars and railways.

On the other hand, if costs of compliance with the new measures are passed on to coach passengers in the form of higher fares, this will favour a modal shift from bus and coach to low cost airlines and, to a lesser extent, to private cars and railways.

Table 12 - Average environmental costs in EU15, Norway and Switzerland by cost category and type of transport (Euro / 1000 pkm)

	Car	Bus & Coach	Railway	Aviation
Noise	5,2	1,3	3,9	1,8
Air Pollution	12,7	20,7	6,9	2,4
Climate change*	10,1	4,8	3,6	26,4
Nature & Landscape	2,9	0,7	0,6	0,8
Up-/Down stream	5,2	3,9	3,4	1,0
Total EU15+NO & SW	36,1	31,4	18,4	32,4

Note: * Average of the outcomes of the high and low scenarios

Source: PwC elaboration on IWW & INFRAS “External costs of transport” (2004)

The cost for bus and coach is EUR31.4 per 1000 pkm. Passenger cars are worse polluters than bus and coach, at EUR36.1 per 1000 pkm. Railways, with external costs of EUR18.41000 pkm, can be considered the most environmentally friendly mode of transport. Aviation and low cost airlines record similar environmental costs to bus and coach transport.

In conclusion, any modal shift that occurs will lead to an increase or a decrease in demand respectively for modes of transport that are high polluting (private cars) and those which are low polluting (rail) or equally polluting (low cost airlines), Therefore, it is not advisable to pronounce on negative or positive environmental impacts in this context.

5.5. Value added of the EU action

This paragraph analyses the added value of EU action for each option. On this basis it will draw conclusions on the added value and necessity of each identified measure.

5.5.1. Options 1 and 4

In principle, option 1 will not alter the existing situation, and therefore represents no value added for EU citizens. While the implementation of option 4 may reflect current developments in the bus and coach market, it is not possible to fully ascertain the value added of this approach, since the number of voluntary agreements is quite limited and they are not applied consistently across the EU. The involvement of EU institutions in encouraging economic operators to adopt self-regulatory schemes may bring positive results in the long term.

5.5.2. Option 2

Measures	Value added to the EU
Rights of persons with reduced mobility	Disabled persons and persons with reduced mobility (over 10% of EU population) can benefit from increased accessibility of vehicles operating international services. Furthermore, it is easier for them to access the main terminals and, lastly, they enjoy the benefit of assistance and information before and during the trip.

	<p>These measures are expected to have positive impacts on the tourism industry, since more people (sometimes accompanied) will have the opportunity for leisure travel (Estimated impacts: 0.4 million of additional trips per year corresponding to EUR 264m of additional revenue and 5 900 additional jobs in FTE).</p> <p>The EU does not have to bear major costs. On the contrary, Member States are expected to incur the costs for the provision of facilities and infrastructures adapted to the needs of disabled persons and persons with reduced mobility.</p>
Liability of operators in event of death or injury, etc.	<p>Rights of passengers in international travel are enforced. Passengers will enjoy better legal protection (see liability) and greater economic security (see insurance). These measures comply with the right of EU citizens to freedom of movement.</p> <p>Furthermore, passengers can easily obtain a refund if their luggage (as well as mobility equipment) is lost or damaged.</p> <p>The cost to the EU and Member States is insignificant.</p>
Quality of service and assistance in case of cancellation, delays and denied boarding, etc.	<p>It will be mandatory to give passengers information in the event of cancellation, delays, etc. Furthermore, passengers will be given information about their rights.</p> <p>National enforcement bodies (NEBs) generate extra costs to Member States</p>

5.5.3. Option 3.I

Measures	Value added to the EU
Rights of persons with reduced mobility	<p>As with option 2, disabled persons and persons with reduced mobility are afforded increased accessibility and assistance. This option assumes that buses and coaches are physically accessible. In addition to option 2, the protection measures are extended to occasional international services.</p> <p>Impact on the tourism industry is significantly higher than with option 2 (Total impacts: 4.4 million additional journeys per year corresponding to EUR 3.000 M of additional revenue and to 67,300 additional jobs in terms of FTE).</p> <p>There are still likely to be impacts on the coachwork manufacturing industry (higher than with option 2, but still moderate).</p> <p>As with option 2, the EU does not have to bear major costs.</p>
Liability of operators in event of death or injury, etc.	<p>As with option 2, the rights of passengers undertaking an international journey are enforced in terms of better legal protection (see "liability") and greater economic security (see "insurance"). In addition, passengers can receive advance payments.</p> <p>As with option 2, passengers can easily obtain a refund when luggage (and mobility equipment) is lost or damaged.</p> <p>Costs to the EU and Member States are insignificant.</p>
Quality of service and assistance in case of cancellation, delays, denied boarding, etc.	<p>As with option 2, passengers can enjoy better protection in terms of compensation and assistance in the event of cancellation, delays, denied boarding, etc.</p>

boarding, etc.	<p>Furthermore, the EU intervening by means of a Regulation directly ensures maximum protection of passengers' rights, since the Regulation is compulsory and directly and immediately applicable.</p> <p>As with option 2, implementing NEBs generates additional, though moderate costs.</p>
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5.5.4. Option 3.II

Measures	Value added to the EU
Rights of persons with reduced mobility	<p>As with option 3.I, disabled persons and persons with reduced mobility benefit from increased accessibility, assistance and information. In addition to option 3.I, the protection measures are extended to domestic services.</p> <p>Impact on the tourism industry is twice as high as with option 3.I because of inbound demand (Total impacts: 10.2 million additional journeys per year corresponding to EUR 6.300 M. EUR of additional revenues and to 141 400 additional jobs in terms of FTE).</p> <p>Impacts on the coachwork manufacturing industry are still expected (higher than with option 3.I).</p> <p>As with options 2 and 3.I, the EU does not have to bear major costs. Member States are expected to incur the same costs as with options 2 and 3.I for the provision of facilities and infrastructures adapted to the needs of disabled persons and persons with reduced mobility, but in this case the number of terminals and stops needing to be renewed and adapted will be higher.</p>
Liability of operators in the event of death or injury, etc.	<p>As with option 3.I, rights of passengers are enforced as regards better legal protection (see liability) and greater economic security (see insurance), but protection is also extended to passengers on a domestic journey.</p> <p>It will be easy for both domestic and international passengers to obtain a refund when their luggage (and mobility equipment) is lost or damaged.</p> <p>Costs to the EU and Member States are insignificant.</p>
Quality of service and assistance in the event of cancellation, delays and denied boarding, etc.	<p>The same as option 3.I, except that passengers using long distance domestic services can also enjoy the same protection of their rights.</p> <p>Implementing NEBs generate slightly higher costs than under the other options, but costs are still moderate.</p>

5.6. Subsidiary and proportionality of options

In fact there is no reason to expect costs or benefits for companies to differ according to the nature of the trip (whether it is intra-Community or domestic). Costs related to long distance trips are mostly the same, whether the trip covers the 900 km between Granada and Barcelona (domestic) or between Dijon and Barcelona (international).

Passenger protection, as part of the internal market and common transport policies, is an issue of European scale which requires a solution at Community level. The liberalisation of a market is only one side of the internal market; the other side has to take into account consumer interests, especially those not covered by market forces. Given the increasing

number of consumers travelling for leisure or work within the European Union, it becomes more and more important to ensure that they can count on a similar set of rights wherever they are. This can be achieved by an action on Community level.

Member States are imposing public service obligation on bus operators, including quality standards of the services. These standards should provide passengers with a high level of protection. Member States should be free to further regulate these services with regard to passenger rights provided that they can ensure a comparable amount of rights to that established on Community level.

Other domestic services not covered by public service obligation may not be subject to such obligations. Therefore they may be regulated on uniform way in all Member States. This can be achieved by Community legal instrument.

From the passenger's point of view, on the other hand, the benefits are far greater if a regulation covers both international and domestic trips. For example, should an accident happen to a coach covering the trip Madrid-Paris, those passengers on the coach who intended to cross the border would be protected and would have rights under the new proposal for a Regulation, whereas those who intended to get off the coach at Gerona, just before the border, or those who embark at Montpellier would not be protected and would have no rights.

Situations of this kind would be very common. Taking the example of a coach travelling from Madrid to Lisbon with a stop in Badajoz, the passengers crossing the border would have rights that those disembarking just a few kilometres before would not have. A disabled person would be protected by the regulation if travelling from Krakow to Berlin, but another disabled person, sitting on the same coach, but travelling only from Krakow to Poznan, i.e. before the border, would not be protected. Community citizens would not understand their rights and their protection would differ according to the nature of the trip in Europe.

The same problem arises with railway passenger rights. Originally the Commission proposed to cover only international cross-border services and no domestic services. The European Parliament rejected this approach, as the Commission proposal would have created two classes of passengers. Those who could afford to travel on Thalys would be protected, whereas domestic passengers on regional services would be without rights. Even worse, there would be different legal regimes on the same train: a passenger leaving the train before the border would be unprotected whereas a passenger leaving after the border would be protected. Council has finally accepted this point of view, and the adopted regulation will cover both international and domestic rail trips.

5.7. Impact on SMEs

Given the structure of the bus and coach industry, the measures proposed will have an impact on small and medium-sized enterprises. Depending on the option chosen the impact on SMEs may range from: none (option 1), very limited (option 4), modest (option 2) to large (option 3).

The sector is characterised by the dominance of small and medium-sized enterprises. In general, some 26% of the companies providing international services have only one bus or coach, 50% of the companies have 2 to 10 vehicles, 20% have 11 to 50 vehicles and 4% have

more than 50 vehicles. This size distribution is quite similar to the size distribution in domestic transport⁴⁵

A survey⁴⁶ carried out by IRU on profitability in international bus and coach transport showed that, in the EU25, profit levels range between 0% and 5%.

The main reason for this is the relatively easy access to the profession and to the market, which encourages firms to expand fleets immediately when they see a market upturn. Such an expansion of fleets then contributes to overcapacity, leading to a drop in price levels.

Furthermore, although large firms do achieve economies of scale, they lack flexibility as regards the utilisation of their fleets, and a negative development in one or two market segments could easily put large firms in trouble. Smaller firms are more flexible, and are able to switch more easily between different markets segments.

Options 1 and 2 would not create any new burden for small and medium-sized enterprises. Whereas the costs generated by option 2 would be moderate (liability issues, assistance), the impact of option 3 would be significant in terms of the cost of a fleet of vehicles available to disabled persons and persons with reduced mobility.

5.8. Administrative costs

Options 1 and 4 would not generate any additional administrative cost, but options 2 and 3 may have some financial implications. However, at this stage, the administrative costs of implementing the provisions on enforcement of passenger rights can be quantified on the basis of the work of national enforcement bodies under Regulation (EC) No 261/2004. A legislative initiative will clearly involve an administrative cost for the Member States. The national enforcement body (referred to hereinafter as "NEB"), designated by each MS, will have to process an increasing number of complaints from passengers. According to the "Review of Regulation 261/2004"⁴⁷ on air transport, the 25 NEBs reported that they had received around 32 000 complaints under the Regulation since it came into force, which is equivalent to 44 complaints per million passengers departing from EU airports. There are significant differences in the resources available to NEBs to handle these complaints. However, the average number of staff working on enforcement of the Regulation, by Member State, expressed in terms of full time equivalents (FTEs) is 0.09 per million departing passengers.

Assuming that the rate of complaints per passenger in bus and coach transport will be similar to that reported for air transport, and given that the number of international passengers transported by bus and coach in 2004 was estimated at approximately 72.8 million⁴⁸, it can be assumed at this stage that the number of complaints to be handled per year will amount to around 3 200. If the proposed regulation is also extended to include long-distance domestic services, the above figure can reasonably be expected to triple; consequently, the number of complaints to be handled in a year could be around 10.000. However, this number may prove to be an overestimate if a "lighter" regulatory regime is chosen for buses and coaches.

⁴⁵ IRU, NEA "A study to update road transport statistics in Europe", May 2006

⁴⁶ See footnote 49

⁴⁷ European Commission DG TREN: "REVIEW OF REGULATION 261/2004". Report was prepared by Steer Davies Gleave (February 2007)

⁴⁸ see Chapter I.

It is estimated that the designated NEBs will have to employ 7 FTEs to handle complaints related to international bus and coach services. If the forthcoming regulation is also to apply to domestic services, then the number of FTEs to be employed by the NEBs might be as high as 20. Therefore, the number of persons to be employed to enforce the forthcoming regulation is expected to be less than one unit per MS. Given that the average labour cost for one FTE in public administration in EU27 was EUR32 600 per year in 2004⁴⁹, the total cost of employing seven extra FTEs will be EUR 214 000 and the total cost of employing 20 extra staff will be roughly EUR 640 000. It is possible that these labour costs might be overestimated; in fact, considering the small number of staff required, it is likely that the complaints will initially be handled by the existing staff.

6. KEY CONCLUSIONS OF THE IMPACT ASSESSMENT

This chapter sets out the optimal policy options with a view to achieving the objectives of the legislative act. It contains a succinct comparison of available options with regard to the main policy objectives as defined in Chapter 2 of the document. The scoring reflects the cost and associated benefits of each option for every measure considered under this impact assessment. The benefits are measured against the objectives of an EU action and the ability of the measure considered to address effectively the problems identified. The option preferred is the one that represents the best ratio.

6.1. Principle of non-discrimination and assistance to disabled people and those with reduced mobility

The optimum policy option is the standard protection scenario (which also covers domestic services).

The choice of the best option has been influenced by two main issues:

- Trade-off between the asserting of passenger rights and increasing costs. The additional costs to the operators are likely to be passed on to passengers in the form of higher fares. An increase in ticket price might result in less social inclusion for disadvantaged categories of persons;
- Bus and coach passengers are "price-sensitive" customers and an increase in fares may cause a modal shift to low cost airlines, cars and railways;
- Bus and coach passengers are often those on low incomes.

Therefore, in order to assert the principle of non-discrimination and assistance to disabled persons and persons with reduced mobility, the proposed policy has to guarantee an optimum level of accessibility which compels the operators and the terminals to install adequate features and, at the same time, to avoid any attendant increase in ticket prices.

Therefore, taking the best available option, an EU legislative act should include at least the following elements:

⁴⁹ Eurostat Labour Market Survey (2004).

- Assistance at the terminal. The terminal manager shall be responsible for the provision of the assistance to disabled persons and persons with reduced mobility.
- Assistance on board. A coach or bus operator and/or a tour operator shall provide assistance to disabled persons and persons with reduced mobility both on board and during boarding and disembarking from a vehicle.
- Non-discrimination with regard to making a reservation

Table 13 – Costs-Benefit analysis: Principle of non-discrimination and assistance to disabled persons and persons with reduced mobility

Principle of non-discrimination and assistance to disabled persons and persons with reduced mobility ⁵⁰		
Policies	Costs	Benefits
1) No Policies option	-	✓ Some country have already adopted a regulation (i.e. UK, Sweden, Ireland et al.)
2) Standard protection scenario	XX Training costs The assistance can be provided directly from either the driver, the second driver, on board attendant and terminal staff. Capital costs for adapting I terminals;	✓✓✓ Disabled persons and persons with reduced mobility (10% of EU population) will have full access to international scheduled services
3.I) Enhanced protection scenario (only international transport)	XXXXXX As with Option 2 Accessibility of bus and coaches will generate significant costs Carriers offering occasional international services will be affected	✓✓✓ As with Option 2 + Accessibility extended to international occasional services
3.II) Enhanced protection scenario (both domestic and international transport)	XXXXXX As with Option 3.I, but also carriers and terminals domestic services will be affected	✓✓✓✓ As with Option 3.I + Accessibility extended to domestic services

⁵⁰ The evaluation criteria used to assess costs are as follows: none (-), very modest (X), modest (XX), significant (XXX), high (XXXX), very high (XXXXX). The evaluation criteria used to assess benefits are: as follows: none (-), very modest (√), modest (√√), significant (√√√), high (√√√√), very high (√√√√√).

4) Self-regulatory scenario	-	✓ Accessibility to disabled persons and persons with reduced mobility is not expected to increase compared to the no policy option
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6.2. Principle of liability of operators in the event of death or injury of passengers

The optimum policy option is the enhanced protection scenario (both domestic and international transport).

Option 3.II is seen as the best option because it will increase protection of passengers' rights (both domestic and international) and will establish the responsibility of the operators at EU level, with only a moderate impact on the costs to the operators.

Option 3.I would solve all problems of legal differences between Member States on the issue of international services, but it could also open up some issues regarding discrimination between domestic and international passengers. In fact, since there are few if any national laws at the present time, the EU provisions would mean that national journeys would benefit from less protection than European journeys: this difficulty might be overcome simply by including domestic transport in the scope of the provisions (Option 3.II).

Table 14 – Costs-Benefit analysis. Principle of liability of operators in the event of death or injury of passengers

Principle of liability of operators in the event of death or injury of passengers ⁵¹		
Policies	Additional Costs	Benefits
1) No Policies option	-	✓ ✓ Some benefits are already granted by Directive 2005/14/CE and national legislation.
2) Standard protection scenario	X Additional insurance costs to the operators of Member States whose national legislation is not already compliant to the proposed regulation.	✓ ✓ The benefits are not expected to increase significantly compare to the no policy option.

⁵¹ The evaluation criteria used to assess costs are as follows: none (-), very modest (X), modest (XX), significant (XXX), high (XXXX), very high (XXXXX). The evaluation criteria used to assess benefits are: as follows: none (-), very modest (√), modest (√√), significant (√√√), high (√√√√), very high (√√√√√).

3.I) Enhanced protection scenario (only international transport)	XXX As with option 2, but operators will have to borne extra costs due to advanced payment and more expensive legal procedures.	✓✓✓ Passenger will benefit of better legal and economic protection.
3.II) Enhanced protection scenario (both domestic and international transport)	XXXX As with option 3.I, but also carriers operating only on domestic market will be affected.	✓✓✓✓✓ As with option 3.I but benefits will be extended to domestic journeys.
4) Self-regulatory scenario	-	✓✓ Benefits are likely to be limited compared to the no policy option.

6.3. Quality standards / information obligations / compensation and assistance in case of cancellations, delays and denied boarding

The optimal policy option is the standard protection scenario combined with aspects of the self-regulatory option.

Option 2 (standard protection scenario) would be preferable because sufficient protection of passengers guaranteed by legislation will also encourage bus and coach transport operators to offer better services without raising fares. They will have a greater incentive to pay attention to passengers’ demands, maintain consistently high standards and avoid any failure in service that could create dissatisfaction among passengers. This should improve their position on a market in which companies compete on both price and quality of service. Therefore, a legislative initiative on passenger protection can be expected to contribute positively to the competitiveness of Community operators.

Lastly, it should be noted that introducing an obligation of “compensation in the event of delay” may not be recommended, since it might prove impossible to regulate this area effectively because of difficulties in apportioning responsibility for the delay which are directly related to the definition of cause of “*force majeure*”. This may also have an adverse effect on road safety, as carriers may be tempted to disregard other relevant provisions in order to avoid the financial consequences of a mandatory compensation scheme. Therefore any compensation scheme for delays should take into consideration these circumstances. The Commission should encourage European bus and coach companies to draw up appropriate quality standards and develop good practices.

Table 15 – Costs-Benefit analysis with regard to Quality standards / information obligations / compensation and assistance in case of cancellations, delays and denied boarding

Quality standards / information obligations / compensation and assistance in case of cancellations, delays and denied boarding⁵²

⁵² The evaluation criteria used to assess costs are as follows: none (-), very modest (X), modest (XX), significant (XXX), high (XXXX), very high (XXXXX). The evaluation criteria used to assess benefits are: as follows: none (-), very modest (√), modest (√√), significant (√√√), high (√√√√), very high (√√√√√).

Policies	Additional Costs	Benefits
1) No Policies option	-	✓ Passenger can already benefit from Charters and guarantees adopted by some European carriers, even if not fully comprehensive.
2) Standard protection scenario	X Additional costs for operators.	✓✓✓✓ Minimum standard of quality/information obligation / compensation and assistance defined at EU level.
3.I) Enhanced protection scenario (only international transport)	XXX Costs to the operators will be higher compared to option II because the rules of protection are strictly defined.	✓✓✓✓ Comprehensive standard of quality / information obligation / compensation and assistance defined at EU level.
3.II) Enhanced protection scenario (both domestic and international transport)	XXXX Also carriers operating on domestic services will be affected	✓✓✓✓✓ As with option 3.I, but benefits are extended to passengers that undertake domestic journeys.
4) Self-regulatory scenario	X Operators would not be incurring large additional costs	✓✓✓ Benefits are likely to be limited in the beginning, but may increase when the self-regulatory agreement become more general across the EU.

6.4. Final conclusions:

It is considered that the selected options:

- Are the most appropriate with a view to achieving the objectives of strengthening passenger rights in bus and coach transport
- Guarantee the basic rights of passengers across the EU
- Ensure a level of protection of passengers that is comparable with other modes of transport
- Ensure non-discriminatory treatment of, and assistance to, disabled persons and persons with reduced mobility with a view to their social integration
- Generate only limited costs for economic operators, especially small and medium-sized enterprises, and for Member States
- Give precedence to a self-regulatory approach whenever operators themselves can guarantee a high level of passenger care and service quality as part of market competition.

7. CONSIDERATIONS ON THE IMPLEMENTATION OF THE PROPOSED POLICY OPTION

7.1. Implementation and level of compliance

Currently, passengers using international bus and coach transport across the EU enjoy a variable level of protection, depending inter alia on the rights established under national law, which are often inconsistent and patchy. Given that most Member States do not appear to have appropriate legislation in place to protect passengers that use this mode of transport, then none of the existing systems guarantees immediate assistance and compensation without recourse to national judicial systems. Furthermore, there are very few Member States whose national legislation contains specific provisions on accessibility and assistance to disabled persons and persons with reduced mobility.

7.2. Risk of failure

The level and degree of compliance with the provisions depends largely on the legal instrument chosen and the clarity of the legal text. Moreover, the success or failure of the EU intervention depends on the Member States putting in place an efficient system of implementation. The unsatisfactory implementation of Regulation (EC) No 261/2004 on air passengers' rights has demonstrated that this is a crucial issue⁵³. These problems with enforcement should be taken into consideration with regard to the establishment of passenger rights in other modes of transport in terms of clarity of provisions and effectiveness of complaint handling procedure.

By the same token, the effectiveness of voluntary charters, especially with regard to quality standards, is highly debatable: the strong views expressed by consumers' organisations confirm that codes of conduct have so far failed to deliver full implementation. Past experience has demonstrated that, even when the carriers have satisfied the commitment to transform voluntary commitments into a contractual obligation, passengers have been dissatisfied with the actual performance of the services. However, the active involvement of the European Commission may in itself provide an incentive for bus and coach enterprises to draw up viable voluntary agreements on service quality and passenger care.

7.3. Outline of possible monitoring tools

In line with other acts establishing passenger rights, Member States should designate an entity responsible for the enforcement and the application of the proposed regulation, taking the necessary steps to ensure that the rights of passengers are respected.

Furthermore, the designated body should also examine complaints from passengers and ensure that their rights are respected when infringements are found. Passengers should be allowed to complain about any infringements, wherever they happen, to the body in the Member State where they reside and even to refer the complaint to the competent national body, if necessary.

⁵³ COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL pursuant to Article 17 of Regulation [EC]261/2004 on the operation and the results of this Regulation establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights. COM(2007)0168

Furthermore, Member States should be required to set penalties for infringements of the act, and these penalties must be effective, proportionate and dissuasive.