Council of the European Union

Brussels, 24 May 2023
(OR. en)

9734/23
ADD 3

Interinstitutional File:
2023/0155(COD)

TRANS 203
SOC 343
CODEC 949
IA 123

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	24 May 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	SEC (2023) 197 FINAL
Subject:	Impact Assessment - Opinion of the Board

Delegations will find attached document SEC (2023) 197 FINAL.

Encl.: SEC (2023) 197 FINAL

EUROPEAN COMMISSION

Brussels, 16.12.2022
SEC(2023) 197 final

REGULATORY SCRUTINY BOARD OPINION

Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EC) No 561/2006 as regards minimum requirements on minimum breaks and daily and weekly rest periods in the occasional passenger transport sector

{COM(2023)256 final}
{SWD(2023) 137 final} {SWD(2023) 138 final}

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB/

Opinion

Title: MOVE Impact assessment / Driving and rest times for bus drivers

Overall opinion: POSITIVE WITH RESERVATIONS

(A) Policy context

Regulation (EC) No 561/2006 establishes requirements on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods for drivers. Apart from certain exceptions, the Regulation applies equally to two different types of transport services: goods and passengers, including occasional passenger transport. However, compared to freight transport, or even to regular (scheduled) passenger transport, occasional passenger transport presents specific characteristics (e.g. high seasonality) related to driver work (e.g. meeting ad hoc unexpected needs of passengers and their touristic program).

The 2017 evaluation confirmed that some of the rules on the organisation of driving times, breaks and rest periods are not well adapted to occasional passenger transport. While the 2020 revision of the Regulation was targeted on the freight sector, it added a requirement in the Regulation that the Commission should assess by 2022 whether specific rules for drivers engaged in occasional passenger transport are needed.

(B) Summary of findings

The Board notes the additional information provided and commitments to make changes to the report.

However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:

(1) The report does not sufficiently demonstrate on what basis it reaches conclusions on the contribution of driving and rest times to driver fatigue and stress, and to reduced customer satisfaction and demand. It neither demonstrate a meaningful problem nor impact of options on competition on the relevant markets.

(2) The report does not sufficiently justify the choice of the preferred policy option.

This opinion concerns a draft impact assessment which may differ from the final version.

Commission européenne, B-1049 Bruxelles - Belgium. Office: BERL 02/352. E-mail: regulatory-scrutiny-board@ec.europa.eu

(C) What to improve

(1) The report should better describe how the evidence and the contributions from stakeholders were combined to draw conclusions on the low customer satisfaction and demand and how this is impacted by the driving and rest times. It should identify any further factors that contribute to these problems and indicate how significant the contribution of the flexibility of driving and rest times is. It should provide evidence that confirms the specificities of occasional bus and coach transport services compared to regular bus and coach services and to road freight services. It should demonstrate with evidence to what extent there is a meaningful competition or level playing field problem between domestic and international bus transport services given that, from a demand side perspective, these services seem to represent different relevant markets.

(2) The report should better describe the baseline, by considering additional factors impacting the identified problems on top of the evolution of the traffic. It should better explain how the options were designed, including by clarifying if they were suggested by stakeholders.

(3) The report should better justify the choice of the preferred policy option. It should emphasise that the calculated Benefit Cost Ratio does not reflect the impact on working conditions and that the quantitative and qualitative assessments need to be combined to allow a fully informed view.

(4) The report should better explain how stakeholders' contributions, relevant experts' views and studies were integrated in the assessment of the impact of the policy options on the working conditions, competition, and road safety (including on the relationship between driving and rest times and road safety). The analysis should highlight uncertainties and clearly describe the underlying assumptions.

(5) The report should ensure that stakeholders' views are taken into account in a sufficiently balanced way reflecting adequately the often small samples of replies received. In particular, it should clarify how the views of employed bus and coach drivers and unions were taken into account in the analysis.

(6) The report should further develop the SME test given the importance of SMEs for occasional bus and coach services. It should highlight the information on SMEs contained in the relevant annexes and in the support study (e.g. case studies) and it should describe the specific consultation activities carried out on SMEs.

The Board notes the estimated costs and benefits of the preferred option in this initiative, as summarised in the attached quantification tables.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must revise the report in accordance with the Board's findings before launching the interservice consultation.

If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.

Full title	Driving and rest times for bus and coach drivers
Reference number	PLAN/2019/5424
Submitted to RSB on	16/11/2022
Date of RSB meeting	Written procedure

ANNEX: Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

I. Overview of Benefits (total for all provisions) – Preferred Option *(Policy option A)*		
Description	***Amount***	***Comments***
Direct benefits		
Adjustment costs savings for occasional bus and coach operators, expressed as present value over 2025-2050 relative to the baseline	EUR 106.4 to 141.9 million	The preferred policy option would reduce the need for stops and other changes to itineraries solely for the purpose of complying to the rules, as well as increasing the proportion of itineraries that could be staffed with a single driver (rather than two drivers). The result would be reduced operation costs for occasional bus and coach operators, especially SMEs, who are less well-equipped than larger companies to handle the current rules.
Positive impact on the functioning of the internal market and competition	-	Allowing bus and coach drivers in domestic occasional carriage of passengers to postpone the weekly rest period for up to 12 consecutive 24-hour periods, following a previous regular weekly rest period, is expected to have a strong positive impact on levelling the playing field for companies reliant on domestic services and thus is expected to have a positive impact on the competition between the international and domestic services, and the functioning of the internal market.
Positive impact on compliance with the rules	-	The preferred policy option would help to address the current issues with compliance difficulties, while avoiding changes that would make the rules more difficult to report on and enforce, thus generating a net positive impact.
Positive impact on working conditions	-	The preferred policy option would address the problems that the current rules cause for working conditions, while using compensatory action to mitigate the risks. Thus the revised rules are expected to have a positive impact on working conditions.
Positive impact on driver's stress and fatigue	-	By improving working conditions and facilitating compliance with the rules, the preferred policy option strikes the right balance between flexibility and maintaining the principles of the current rules, thereby leading to reduced driver stress and fatigue for drivers.
Indirect benefits		
Higher-quality and cheaper occasional bus and coach services for consumers	-	The revised rules are expected to make it easier for operators to arrange services in a high-quality and efficient way. To a certain extent, reduced costs for operators are expected to be passed on the consumers in the form of reduced prices for occasional services.
Administrative cost savings related to the 'one in, one out' approach*		
-	-	-

II. Overview of costs – Preferred option *(Policy option A)*							
		Citizens/Consumers		**Businesses**		**Administrations**	
		One-off	**Recurrent**	**One-off**	**Recurrent**	**One-off**	**Recurrent**
Direct adjustment costs		-	-	For occasional bus and coach operators: EUR 0.6 million in 2025	-	For Member States administrations: EUR 5.4 million, expressed as present value relative to the baseline	-
Direct administrative costs		-	-	-	-	-	-
Direct enforcement costs		-	-	-	-	-	-
Costs related to the 'one in, one out' approach – the initiative has no 'one-in, one-out' implications							
Total	Direct adjustment costs	-	-	For occasional bus and coach operators: EUR 0.6 million in 2025, for getting familiar with the new rules. Overcompensated by the adjustment costs savings for the sector.	-		
	Indirect adjustment costs	-	-	-	-		
	Administrative costs (for offsetting)	-	-	-	-		