

January 2018

## Access to the international market for coach and bus services

*Impact Assessment (SWD(2017) 358, SWD(2017) 359 (summary)) of a Commission proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) 1073/2009 on common rules for access to the international market for coach and bus services (COM(2017) 647)*

### Background

This note seeks to provide an initial analysis of the strengths and weaknesses of the European Commission's [impact assessment](#) (IA) accompanying the above mentioned [proposal](#), submitted on 8 November 2017 and referred to Parliament's Committee on Transport and Tourism.

Bus and coach transport is an economical, efficient and sustainable mode of transport that can contribute to reducing emissions and to improving accessibility for citizens with low income or living in isolated and low population density regions with no rail services (IA, p. 4). The current legal framework that lays down the rules applicable to access to the international market for coach and bus services is [Regulation \(EC\) 1073/2009](#). This regulation simplified and developed conditions for the international carriage of passengers by coach and bus across the European Union. Provisions of the regulation apply to regular service, special regular service and occasional service.<sup>1</sup> Furthermore, the regulation applies to cabotage operations<sup>2</sup> and also occasionally to own-account transport. The regulation aimed at the completion of the internal market for coach and bus services and at increasing the efficiency and competitiveness to generate a shift in the use of private passenger cars to coach and bus services. However, the [evaluation outcomes](#) suggest that the sector has failed to compete effectively with other modes of transport, in particular the private car, as a means of making longer distance journeys, and there are various challenges to the present system that limit harmonisation in this particular field.<sup>3</sup>

In this context, the European Parliament pointed in its 2017 resolution<sup>4</sup> to a need to ensure, among other things, the completion and improved operation of the internal market for the transport by road of passengers and freight. The Commission promised to take actions allowing further development of domestic bus and coach services in the 2016 [European strategy for low-emission mobility](#) and confirmed its plans to review the EU rules on buses and coaches in the 2017 communication [Europe on the move](#). It included the revision of Regulation (EC) 1073/2009 in its [2017 work programme](#) (CWP) under the [regulatory fitness \(REFIT\) initiatives](#), following up on an evaluation, which was concluded in 2017 with the publication of the [ex-post evaluation report](#).

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<sup>1</sup> **Regular** services cover carriage of passengers at specific intervals along specific routes with passengers being picked up at predetermined stops. **Special regular** services cover regular carriage of specified categories of passengers while other passengers are excluded (e.g. schoolchildren or workers). **Occasional** services cover irregular carriage of groups of passengers on the initiative of the customer or the carrier (e.g. one-off tourist trip or transport to a concert).

<sup>2</sup> **Cabotage** operations are either national services for hire and reward carried out on a temporary basis in a host Member State or transport of passengers within the same Member State in the course of a regular international service.

<sup>3</sup> For further information, see M. Remáč, [Making the market for bus and coach transport work better](#), EPRS, European Parliament, November 2017.

<sup>4</sup> Resolution of 18 May 2017 on [road transport in the European Union](#), European Parliament.

## Problem definition

The problem definition provided in the IA builds on the conclusions of the ex-post evaluation of Regulation (EC) 1073/2009. The IA identifies **two main problems** (IA, pp. 8-15):

### 1. *Obstacles in national markets to develop inter-urban coach services*

The evolution of national markets in the Member States is a problem that was not apparent or considered when Regulation 1073/2009 was designed. While on paper, national restrictions affect only domestic transport, in reality domestic and cross-border connections are interlinked and in turn integrated with other modes of transport. Hence, restrictions on domestic coach services and access to terminals have far-reaching consequences for the functioning of the passenger transport sector in the whole EU and across all transport modes. According to the IA, operators are faced with a wide range of restrictions on access to national inter-urban markets even in Member States that have introduced different forms of market liberalisation. The number and diversity of regulatory frameworks and authorising procedures across the EU imposes excessive administrative costs on operators seeking to provide regular services in more than one domestic market.

### 2. *Low modal share of sustainable transport modes*

Although the numbers of passengers using regular international services increased by 40-60 % between 2009 and 2014, there is no data available that indicates any significant shift from passenger car to buses and coaches (IA, p. 6). Bus and coach travel lost 0.1 percentage points of market share during the same period and had 8.1 % of modal share in 2013, while the decrease in individual car transport has been very modest, from 73.5 % to 72.3 % of modal share. The ex post evaluation shows that the intended modal shift from passenger car to coach and bus services did not materialise to the anticipated extent (IA, p. 7). According to the IA, the decline in the modal share of coach services has to be seen in the context of a wide potential for such services. The potential for the development of the network of coach services is linked to the density of the road network in the EU, which is much greater than that of the rail network (IA, p. 12).

**Three underlying problem drivers** affect the two main problems (IA, p. 16-23):

#### 1) *Restricted access to national inter-urban markets*

The regulatory frameworks for national coach services vary widely between the Member States.<sup>5</sup> According to the IA, Member States with non-liberalised markets can exclude operators entirely from potential markets, or award public service contracts (PSC)<sup>6</sup> which favour incumbent operators and prevent potential new entrants from competing on equal terms. Restrictions also occur on liberalised national markets, including prohibition of services below a certain distance threshold, withholding permission to operate following an analysis of the impact of the proposed service on an established operator, and prohibition of certain types of services, for example cabotage operations. The application of these different approaches to protect PSC makes it difficult for operators to plan new services and may prevent potential new entrants from competing on equal terms. The process of awarding PSC's can further exacerbate restrictions on market entry.

#### 2) *Excessive administrative costs of entry*

Operators face excessive costs of entry in national and international markets due to national and local authorisation procedures and requirements. Coach operators carrying out international occasional services, such as group tours to holiday destinations, require a journey form, which generates reported unnecessary administrative burden for operators. Some Member States have already taken action to reduce the administrative burden, e.g. the abolition of the use of journey forms in Nordic Member States.

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<sup>5</sup> (1) Member States that have some competition on the market: Bulgaria, Czech Republic, Denmark, Finland, France, Germany, Ireland, Italy, Poland, Portugal, Romania, Slovak Republic, Sweden and United Kingdom; (2) Member States with periodic tendering of concessions: Spain, Belgium, Netherlands, Austria, Latvia; and (3) Member States that limit competition considerably: Croatia, Cyprus, Estonia, Greece, Hungary, Lithuania, Malta (IA Table 2-4, pp. 5-6).

<sup>6</sup> PSC mean one or more legally binding acts where competent national, regional or local authorities a) award exclusive rights to operators running public services; b) define rules (i.e. public service obligations) for how public transport should be operated.

### 3) *Restricted access to key infrastructure*

Restrictions in access to key infrastructure (identified in 14 Member States) can materially impact on services. It is not always clear and transparent how the terminal slots are distributed between operators on the basis of terminals' capacity restrictions. Discrimination in access to terminals occurs where terminal facilities are both privately and publicly owned. The IA argues that various different structures of ownership and the regulation of terminals across Member States make it difficult for the operators and cause an unnecessary administrative burden.

The consequences of the problems, according to the IA (p. 8), include a transport disadvantage for certain groups of citizens, lack of connectivity and lack of integrated services (convenient connections with other coach services or sustainable models of transport). The discussion of problems and their drivers is based on studies externalised by the Commission, stakeholder consultation and a Eurobarometer report on coach services. For instance, 67 % of operators responded that the restrictions have a negative impact on their ability to expand into new markets (IA, p. 17), while Eurobarometer report results demonstrate that fares can be as much as 20 % higher on routes where the provision of coach services is restricted than on routes where there is competition (IA, p. 13). The effects of the problem on the various stakeholders are also included in the discussion (IA, p. 23). According to the IA, further opening of national markets would strengthen the development of the international market for regular services, quite apart from any benefit for passengers making national journeys. This is because national and international markets are interlinked (IA, p. 23). Nevertheless, the problem definition is generally poorly structured, and at times repetitive. Neither the IA, nor its 'problem tree' diagram (p. 10) make the link between the problem drivers and the main problems clear. All three problem drivers seem to relate to the functioning of the market, which is the first main problem, while the second main problem is not further elaborated upon. The IA does not contain a definition of 'urban' or 'inter-urban' services and only clarifies on page 33 that inter-urban services are commercial, while urban services are usually operated under a PSC and subsidised. Nonetheless, the link the IA makes on page 4 between the initiative and 'isolated and low population density regions' is not immediately apparent.

## **Objectives of the legislative proposal**

Two **general objectives** of the Commission proposal are defined as follows (IA, p. 29):

1. Facilitate inter-urban mobility and connectivity for all citizens;
2. Increase the modal share of sustainable transport modes.

To achieve the general objectives, the following **specific objectives** have been developed (IA, p. 29):

1. Simplify administrative procedures;
2. Remove restrictions on access to inter-urban markets;
3. Prevent discriminatory access to public terminal facilities.

The specific objectives align with the problem drivers identified and, according to the IA, should be mutually reinforcing (p. 30). All of them seem to relate to the functioning of the market, thereby the second general objective is once again left without any specific objective(s). The IA sets five operational objectives (pp. 78-79), and links them with the specific objectives (p. 75), but it does not clarify the link between the general and specific objectives, which is not entirely in line with the Better Regulation Toolbox ([Tool #16](#)). The IA assigns indicators for each operational objective. The objectives appear to be measurable, achievable and realistic. However, they do not seem to be time-bound or specific enough and are therefore not entirely in accordance with the SMART criteria.

## **Range of options considered**

The IA considers the options to address the market access and administrative burden separately from the options to address access to transport infrastructure, because they are not interlinked and the geographical scope of their effects is different. The IA identifies two sets of policy options: the first set addressing specific objectives 1 and 2 (IA, pp. 32-35); and the second set to address specific objective 3 (IA, pp. 35-37). These options are summarised below.

## **Market access policy options to address specific objectives 1 and 2**

### **Option 0 – Baseline:** *the Regulation will continue to apply in its present form*

All things being equal, and in the absence of any further liberalisation measures at the EU or national level, the IA estimates that by 2035, around 26 % of the market will be subject to restricted access and the remaining 74 % of the market will continue to impose various restrictions for new entrants. Baseline projects for inter-urban coach transport by 2030 show a small increase in passenger kilometres (km) (2.5 %), vehicle km (1.9 %), revenue (2.8 %), employment (3.3 %), energy use (1.3 %), CO<sub>2</sub> emissions (1.1 %) and a small decrease in accident costs (-1.6 %). According to the IA (p. 26), the total administrative costs for the coach sector are estimated at €884 million in 2015, rising to €1.288 million in 2030. The IA also comments on possible implications of new technology, such as autonomous vehicles, alternative fuels, new operating models and integrated transport in the bus and coach sector (IA, p. 25).

### **Option 1 – open access to the inter-urban market for regular services with the possibility to refuse authorisation if the economic equilibrium of a PSC is compromised**

This option would provide common market access rules for inter-urban regular services. It would simplify and standardise the authorisation procedure for national regular services and abolish journey forms for occasional services. It would provide a common procedure for authorising regular national and international coach and bus services and eliminate discrimination by Member States on inter-urban routes (e.g. national establishment requirements). The Member States would have the option of limiting the right of access to the market where the new service would compromise the economic equilibrium of an existing PSC. To determine if a PSC may be compromised an independent body should make the decision to grant, refuse or limit the service on the basis of an objective economic analysis, following a request from the competent authorities that awarded the PSC or the public service contract operator. If no request for a test is submitted within the deadline, the authorisation would be granted. Member States will be free to use an already established body and would not be obliged to introduce a new independent body.

### **Option 2 – open access to the inter-urban market for regular services over distances of 100 km or more. Authorisation for distances of less than 100 km can be refused if the economic equilibrium of a PSC is compromised**

This option contains the same measures as Option 1, except that authorisation for the opening of a new coach line could no longer be refused if the service carries passengers over distances of more than 100 km: authorisation would be granted automatically. Over a distance of less than 100 km, competent authorities or the operators of a PSC would have a defined time to request an economic equilibrium test, which would be conducted by an independent body in the same way as in Option 1.

### **Option 3 – open access to the inter-urban market for regular services without an authorisation process for regular services carrying passengers over distances of 100 km or more. Authorisation required only for distances of less than 100 km and can be refused if the economic equilibrium of a PSC is compromised**

This option contains the same measures as Option 1, except that all regular services that carry passengers over distances of 100 km or more would be fully liberalised. New entrants would not have to apply for authorisation to commence a new service carrying passengers over distances of 100 km or more, but they would have to notify the competent authority before commencing, ceasing or altering operation on the route. If the new service is over a distance of less than 100 km, authorisation would be required and the competent authorities or the operators of a PSC would have a defined time to request an economic equilibrium test, which would be conducted by an independent body in the same way as in Option 1.

## **Terminal access policy options to address specific objective 3**

### **Option 4 – soft regulation and reporting obligations for the Commission**

This option would establish guidelines or recommendations on access to terminals, including a definition of 'terminal'. The guidelines would encourage terminal operators or terminal infrastructure managers to provide

access to carriers operating regular services on fair and reasonable grounds and without discrimination between operators. It would be considered fair and reasonable for a terminal operator or infrastructure manager to refuse access to a terminal if there is no available capacity. The guidelines would encourage the terminal operators and infrastructure managers to publish the conditions of use of the terminal in two official languages of the EU, free of charge. The IA does not indicate why two languages were considered or how they would be chosen. The European Commission would report on the effects of market opening after a period of time, during which it is expected that overall demand for access to terminal infrastructure would either have reached a plateau, or peaked and begun to decline.

#### **Option 5 – equal access rules (regulatory approach)**

Same measures as in Option 4, but laid down in legislation. Decisions on applications for access would be required to be taken within a specified time after the date of application. Member States would be required to ensure that carriers have the capability to appeal negative decisions. The European Commission would ensure that undertakings can appeal decisions refusing access by requiring Member States to ensure they have the possibility to appeal to at least one independent and impartial body.

The policy options were formed by combining the policy measures retained after the initial screening and preliminary assessment. Among the discarded measures were the following (IA, Annex 6):

- Other methods to protect PSC than the method that requires a service to carry passenger at least 100 km by road (the most workable approach on the basis of evidence, according to the IA, pp. 128-134):
  - detailed analysis of impact, as required to refuse authorisations;
  - services may not compete with a rail PSC or any PSC;
  - services may not carry passengers between two points in the same administrative area;
  - services must have a minimum distance between stops;
  - services must not compete with a PSC on prices, frequency, or booking conditions.
- Separation of terminal infrastructure managers and road passenger transport operators to ensure their mutual independence (discarded for being inefficient, ineffective, not proportionate, and not politically feasible).

A preferred policy option is selected from each set of options and their combination constitutes the cumulative preferred option. **The cumulative preferred option is a combination of Option 2 and Option 5.** The presentation of options includes the critical views of some Member States on further liberalisation of national markets and generally mixed views on the common requirements for the protection of PSCs. As for the completeness of the options, the second general objective does not seem to be taken into account in the range of Options 1-5. Furthermore, non-regulatory options for specific objectives 1 and 2 were not considered, and no baseline option was foreseen for terminal access. This does not appear to be in line with the [Better Regulation Guidelines](#) (p. 21), which stipulate that the baseline option and the option of improving implementation and enforcement of existing legislation should always be considered.

## **Scope of the impact assessment**

The IA analyses each policy option in terms of its economic, environmental and social impacts. The assessment is mostly quantitative; however, for quality of services, market structure, impact on fares, integration of tickets, level of infringements, SMEs and working conditions, only a qualitative assessment was possible. In the IA, the quantification of impacts in addressing the obstacles in national markets focuses on the 14 Member States<sup>7</sup> that have not liberalised their inter-urban regular coach and bus services, including those awarding concessions through competitive tendering. It is assumed that the non-liberalised Member States will experience a rate of transport activity growth between that of Germany and the United Kingdom in the first five years following the

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<sup>7</sup> Austria, Belgium, Croatia, Cyprus, Estonia, Greece, Hungary, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Slovenia and Spain.

market opening, adjusted depending on the ability of each Member State to restrict market access under each option. The IA does not clarify the basis for this assumption and does not compare with other sectors where market liberalisation has taken place. Impacts in already liberalised Member States are expected to be positive, due to an increasing alignment of national market access rules. The IA compares the policy options in terms of efficiency, effectiveness and coherence. Although internal coherence among policy measures under consideration in the IA is announced among the examined aspects, it is not reported upon. The section on the proportionality of the preferred option provided in the IA does not go as far as reporting anything on the contents of the preferred option and only discusses the choice of legal instrument. According to the IA, Options 2 and 3 are equally effective, but under Option 3, compliance, enforcement and administrative costs for authorities would be higher due to increased potential of infringements, which would make Option 3 less efficient. Option 5 is expected to deliver positive benefits in terms of facilitating inter-urban mobility at minor, if any, regulatory costs.

## **Subsidiarity/proportionality**

The legal basis for the initiative is Article 4 TFEU and Title VI (Transport) of the TFEU, in particular Article 91. According to the IA (p. 28), past experience shows that Member State action at the national or lower level has not been sufficient to tackle the identified problems. Furthermore, Member States acting alone cannot introduce or ensure the coherence and coordination of uniform market access rules needed for the emergence of a genuine internal market for road passenger transport. The Commission explains that the problems identified can be best addressed at EU level in the context of an amendment to the current regulation to ensure the homogenous application of the rules and provide for fair competition (IA, p. 73). It argues that the proposed initiative will not go further than allowed by the Treaty and will not impinge upon Member States' right to specify public service obligations underlying PSCs. It does not aim at total liberalisation of domestic services and Member States may still limit the right of access to national markets if a commercial service would compromise the economic equilibrium of a PSC (IA, p. 27-28). The IA does not provide a thorough subsidiarity and proportionality check for the regulatory options. The discussion of subsidiarity is rather general and refers to the initiative as a whole.

The Spanish Cortes Generales and the Irish Houses of the Oireachtas issued reasoned opinions on the proposal and found that it did not comply with the principle of subsidiarity. According to the Spanish Cortes Generales, (1) the Commission has not sufficiently demonstrated the need for and the added value of the initiative; (2) the proposal goes beyond international and cross border services and extends the scope to purely domestic services; (3) a 100 km criterion discriminates against Spain, given its territorial size; and (4) the need for EU action is questionable, as the goals of the proposal have already been reached in Spain. According to the Irish Houses of the Oireachtas, (1) the choice of instrument in the proposal is problematic, as it unnecessarily limits the provision for national decision-making; (2) the actions in the proposal are not proportionate to its objectives; (3) the Commission has not adequately considered the option of strengthening existing or alternative mechanisms at national and EU level; and (4) the proposal has far reaching implications for well-established national arrangements in place in Ireland's public transport sector. The deadline for submission of reasoned opinions on this proposal was 11 January 2018.

## **Budgetary or public finance implications**

According to the IA's executive summary, the preferred option would entail additional costs for national authorities to enforce the rules on terminals (costs are not specified), but these would be far less significant than the savings for businesses. The main IA report does not quantify the costs of the options for the Member States' budgets. According to the proposal's explanatory memorandum, it has no implications for the Union budget.

## **SME test/Competitiveness**

Economic effects for SMEs, notably in terms of regulatory costs and their competitive position, were assessed using a qualitative methodology. Under Option 2, the greater market stimulation would be expected to generate more opportunities for SMEs (IA, p. 51). Similarly, under Option 5, increased SME entry to establish new services is expected, but the overall effect is still estimated to be limited (IA, p. 65). The IA assumes an overall

improvement in the competitiveness of the sector, but does not provide any specific information, such as the share of SMEs in the sector. The IA does not include an SME test or equivalent.

## **Simplification and other regulatory implications**

The preferred option is expected to save business costs for private operators in the period 2015-2035 relative to the baseline. The net present value of these savings is estimated at €1.564 million in total (€1.450 million from standardisation and simplification of the authorisation procedure, €110 million from improved terminal access and €4 million from the abolition of the journey form for occasional services, IA, p. 77). The IA explains the coherence of the proposal's objectives with overarching EU strategies on pp. 71-73, and additionally provides a description of the road initiatives in Annex 5.

## **Quality of data, research and analysis**

The IA is informed by the results of the [ex-post evaluation](#), which is supported by an [external fact-finding study](#) carried out for the Commission in 2015-2016. The [IA accompanying study](#) was also outsourced by the Commission. The methodology used in the impact assessment is detailed in Annex 4 (IA, pp. 102-121) and includes the modelling method, its key assumptions and the sensitivity analysis. Projections were made using the PRIMES-TREMOVE private model developed and maintained by the National Technical University of Athens, supplemented by national statistics and stakeholder consultation responses. The overall analysis seems to be reasonable and based on an established modelling technique and recent data.

## **Stakeholder consultation**

The IA identifies the stakeholders affected by the problem and the proposed initiative as citizens/passengers, road passenger transport operators, terminal operators, road passenger transport workers and public authorities (IA, pp. 23, 101). Five consultation activities were conducted as part of the IA (IA, p. 89):

1. an open public consultation organised by the Commission (13 weeks, 18 responses to the general questionnaire and 153 responses to the specialised questionnaire);
2. a targeted stakeholder consultation organised by the contractor (9 weeks, 31 responses);
3. 18 interviews organised by the contractor with a number of stakeholders, including industry, trade unions, national authorities and operators (6 weeks);
4. a special Eurobarometer organised by the Commission (1 week, 27 901 responses from the EU-28);
5. stakeholder seminars and discussion at several different events (unspecified in the IA).

The IA indicates that stakeholders were consulted on the problems with current legislation and on the policy measures considered. Stakeholder views are reflected in the problem definition and policy measures sections of the main IA report. According to the IA, the objectives of the consultation activities have been largely achieved and all relevant stakeholder groups within all EU Member States have been consulted (IA, p. 92). However, a closer look at the summary of the results shows that the majority of responses to the first three consultation activities (open public consultation, targeted stakeholder consultation and the interviews) were received from just 15<sup>8</sup> Member States. Furthermore, stakeholder views were mixed on several measures proposed, namely extending the scope of the legislation to include national markets, common requirements for the protection of PSCs, non-discriminatory access to national regular services and the abolition of journey forms for occasional services. According to the IA, the difference in stakeholder views reflects each Member State's unique national regulatory system (IA, p. 31). A synopsis of the stakeholder consultations is included in the IA (Annex 2, pp. 89-100) in line with the Better Regulation Guidelines.

## **Monitoring and evaluation**

According to the IA (p. 78), the regulation should have a provision on the review and evaluation of the new rules some five years after they apply. The IA contains a list of indicators to monitor the achievement of the operational objectives (IA, pp. 78-79). All of the proposed indicators rely on Member State reports as a source of

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<sup>8</sup> Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, United Kingdom.

data. These indicators are not included in the Commission proposal. Instead, the proposal relies on the same indicators as Regulation 1073/2009/EC, with an adjusted reporting frequency (annually vs twice per year).

## Commission Regulatory Scrutiny Board

The Regulatory Scrutiny Board (RSB) issued a negative opinion on the first draft of the IA on 24 July 2017. The major critical comments of the RSB were that the report did not make a convincing argument as to why the problem should be addressed at the EU level; that the objectives of the initiative were not presented in a consistent way throughout the text; the report ignored differences in road and rail transport sectors and across Member States; and the report did not address the stakeholders' reservations on the proposed policy option. In its second opinion, the RSB acknowledged the improvements made to the revised report and issued a [positive opinion with reservations](#) on 13 September 2017. The following shortcomings still had to be addressed according to the RSB: clear evidence that EU regulation improves national inter-urban bus services; sufficient substantiation that public service arrangements to ensure bus connectivity of remote urban centres are not undermined by the regulation; detailed information on local bus terminal capacities; and overall report presentation. Annex 1 of the IA explains in detail the modifications made to the report following the RSB recommendations in both opinions. Overall, the IA seems to have taken the RSB recommendations seriously in both rounds of revisions and to have responded to the comments expressed in the RSB opinions, although the overall clarity and structure of the report could be further improved.

## Coherence between the Commission's legislative proposal and IA

According to its explanatory memorandum, the legislative proposal appears to follow the recommendations of the IA insofar as the preferred combination of Option 2 and Option 5 is the basis for the proposal.

## Conclusions

The overall analysis presented in the IA seems to be reasonable and based on an established modelling technique and recent data. Furthermore, stakeholder views are reflected in the sections on problem definition, policy measures and the presentation of the options. However, the IA report contains a number of flaws and its overall presentation and structure are rather weak. Firstly, the problem definition is generally poorly structured, and at times repetitive. Moreover, the problem of low modal share of sustainable transport modes is underdeveloped, as the IA does not make its driving factors clear. Also, the link between the general and specific objectives is rather vague and the objective of increasing the modal share of sustainable transport modes does not seem to be taken into account in the range of options. The baseline option for terminal access and the option of improving implementation and enforcement of existing legislation were not considered. The IA does not provide a thorough subsidiarity and proportionality check for the regulatory options and does not discuss the proportionality of the preferred option. The discussion of subsidiarity is rather general and refers to the initiative as a whole. Finally, the IA does not include an SME test or equivalent.

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*This note, prepared by the Ex-Ante Impact Assessment Unit for the European Parliament's Committee on Transport and Tourism (TRAN), analyses whether the principal criteria laid down in the Commission's own Better Regulation Guidelines, as well as additional factors identified by the Parliament in its Impact Assessment Handbook, appear to be met by the IA. It does not attempt to deal with the substance of the proposal. It is drafted for informational and background purposes to assist the relevant parliamentary committee(s) and Members more widely in their work.*

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