

Annex D: Consultation reply form

Consultation on:

European Commission Proposal on Bus and Coach Passenger Rights

PART 1 - Information about you

Name	Graham Stevenson
Address	128 Theobald's Road, Holborn, London
Postcode	WC1X 8TN
Email	Graham.Stevenson@unitetheunion.com
Company Name or Organisation (if applicable)	Unite the Union
Please tick one box from the list below that best describes you/your company or organisation.	
<input type="checkbox"/>	Small to Medium Enterprise (up to 50 employees)
<input type="checkbox"/>	Large Company
<input type="checkbox"/>	Representative Organisation
<input checked="" type="checkbox"/>	Trade Union
<input type="checkbox"/>	Interest Group
<input type="checkbox"/>	Local Government
<input type="checkbox"/>	Central Government
<input type="checkbox"/>	Police
<input type="checkbox"/>	Member of the public
<input type="checkbox"/>	Other (please describe):
<p>If you are responding on behalf of an organisation or interest group how many members do you have and how did you obtain the views of your members:</p> <p>Unite the Union has over 250,000 members in its main Transport Sectors: Civil Air Transport; Docks and Inland Waterways; Passenger Transport; and Road Transport Commercial, Logistics and Retail Distribution. We seek the views of our members through our lay member committees at national and regional level.</p>	

If you would like your response or personal details to be treated confidentially please explain why:

YOUR COMMENTS

PART 2

Chapter I: General provisions

Q.1 – Paragraph 8

Do you have any comments on the proposed definitions set out in Article 3 of the proposed regulation?

Please explain your reasons or add any additional comments you wish to make:

- 1) Unite feels that there should be two different regulations instead of the one centred around buses. Passenger transport by road should be covered by (one for urban transport and one for transport by coach.)
- 3) 'regular services' - Again Unite feels that this would be better covered in separate regulation.
- 4) 'transport contract' - Unite feels it is important to include places where a ticket can be purchased from i.e. a carrier, tour operator or ticket vendor. It is important to remember that ticket vendors and retailers do not conclude a contract of carriage, nor do they sell them on their own account. They merely arrange a contract of carriage between the customer and the organiser/transport undertaking.
- 6) 'ticket vendor' - Unite believes adding 'intermediary selling' would help tighten the meaning of this definition along with adding 'tour operator' to coach undertaking. Again ticket vendors are retailers they do not conclude a contract of carriage, nor do they sell them on their own account. They merely arrange a contract of carriage between the customer and the organiser/ transport undertaking.

Q2 – Paragraph 8

<p>Do you have any comments on the proposed scope of the Regulation, in particular should:</p> <p>a) all urban, suburban and regional services (i.e. local bus services) be excluded from the scope of the Regulation, regardless of whether they are provided under a public service contract or not?</p> <p>b) International short-distance services that are effectively local bus services be exempt?</p>	<p>Yes x</p> <p>Yes x</p>	<p>No <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>
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Please explain your reasons or add any additional comments you wish to make:

- Urban, suburban and regional are very specific (no advance reservations use of daily, weekly, monthly and yearly travel passes, many stops, different type of luggage). Therefore, member States must have the possibility to exempt them from the specific requirements of this regulation if they take alternative measures providing for a similar level of passenger rights.
- Again Urban transport takes care of transportation for a short period of time. In tendering processes there should be a direction which includes the passenger's rights. It is impossible to put urban transport and coach transport in the same regulations.

<p>Q.3 – Paragraph 8</p> <p>Do you see the requirement for passengers to be issued with a ticket to be entitled to the rights under the proposed Regulation causing any problems?</p>	<p>Yes x</p>	<p>No <input type="checkbox"/></p>
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Please explain your reasons or add any additional comments you wish to make:

- It could place drivers in an uncomfortable position as a presumed enforcer if there is no ticker inspector on bus and coach services.

Q.4 – Paragraph 8

Do you see any problems being caused by the requirement for operators to provide non-discriminatory contract conditions and fares?

Yes
x

No

Please explain your reasons or add any additional comments you wish to make:

- There are different pricing policies in place based on age. So yes free travel for pensioners and reduced travel for children etc could be questioned.

Chapter II: Liability of operators with regard to passengers and their luggage

Q.5 – Paragraph 17

Do you have any comments on the Commission's proposals regarding liability, in particular should:

a) an operator be prevented from contesting damages up to EUR 220,000 (£209,550) unless the passenger was at fault?

Yes

No
x

b) an operator be required to provide advance payments of damages prior to liability being established?

Yes

No
x

<p>c) an operator be relieved of the liability if the accident is as a result of actions of a third party (as currently drafted they could only try and seek redress against the third party through the courts)?</p> <p>d) maximum compensation limits be set for loss or damage to hand luggage, and are the current limits proposed appropriate?</p>	<p>Yes <input type="checkbox"/></p> <p>Yes <input type="checkbox"/></p>	<p>No x</p> <p>No <input type="checkbox"/></p>
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Please explain your reasons or add any additional comments you wish to make:

- 1) Liability for death and injury of passengers - Unite believes that the responsibility of bus and coach needs to be put into two regulations. There are some clear differences between bus and coaches for instance you can stand on a bus which you can't on a coach. Buses don't have safety belts, were as coaches do.
- Luggage is placed and is accessible in different areas in busses and coaches. It is also not possible for a driver to know who is carrying what and what the value of luggage contents are.
- Therefore any accidents in a bus or coach would not be comparable because there are not safety belts on both vehicles for instance. Plus not wearing a safety belt in a coach is down to passenger choice, as is a passenger standing up, which a driver can not control when they are driving. The emphasis needs to be put on the passenger and not the driver takling reponsibility for such accidents.
- 3) There needs to be a mention of the need for a company to insure themsleves against the possiblity of accidents.
- 4 a.) Unite beleives that the wording needs to be shaprer if this is going to truly rule out any legal action being taken on bus and coach operations in this instance.
- Damages 1) It is passengers responsibility to make sure that they are covered for any loss of luggage or accident. Unite beleives that companies finances

could be put at risk and therefore our members jobs if the onus isnt put on the passenger instead of the company.

- Advance payments 1) If an accident is caused by a third party then they should be responsible and not the bus or coach operation.
- 2) No advance payments should be made until it is clear what party is responsible for an accident.
- 3) Again without responsibility being proven it would not be right to make advance payments especially if they are not returnable either way. In addition bus and coach operations luggage is not checked in and nor would there be the time for a roadside operation to do this, in the same way as in aviation for instance. So there is no way of knowing who has put luggage on a bus or coach operation.
- Liability for lost and damaged luggage 2) – Again nobody knows what luggage is taken on a bus or coach operation so it is not possible to suggest appropriate fine levels because there is no way of knowing whether the luggage was on there nevermind measuring the potential cost of contents.

Q.6 – Paragraph 17

Do you think passengers are already adequately covered for personal and property damage under existing European legislation on motor insurance?

Yes

No

Please explain your reasons or add any additional comments you wish to make:

Chapter III: rights of disabled persons and persons with reduced mobility

Q.7 – Paragraph 29

Do you have any comments on the Commission's proposals regarding disabled people and people with reduced mobility, in particular those that:

- a) prevent operators, their ticket vendors and tour operators, from refusing to accept a reservation, issue a ticket, or board a passenger on the grounds of disability or reduced mobility?**
- b) require operators to produce non-discriminatory access rules that apply to the transport of disabled persons and people with reduced mobility?**
- c) require operators and terminal managers to provide assistance particularly with regards to the requirements set out in Annex I and II?**
- d) require operators to pay unlimited compensation where wheelchairs or other mobility equipment is lost or damaged and, if necessary, for replacement to be quickly provided?**

Please explain your reasons or add any additional comments you wish to make:

- Prevention of refusal of carriage 1) – Unite believes that it is not appropriate to put bus and coach operations in the same regulation because they clearly have very different demands on them.
- Accessibility and information 1) Different wheelchairs require different types of fastening equipment in coaches in particular. There is yet to be one fully purpose coach, bus or any transport vehicle for that matter that can cater for all fully able and different types of disabled passenger.
- Right to assistance 1) – Passenger road transport does not have the advantage of terminals in the way other forms of transport have, nor the amount of supporting workers to help load and unload passengers and luggage. This is an unrealistic demand.
- Contrary to rail and air transport, bus and coach crew are most of the time composed of a single driver who cannot provide assistance on board while driving, without compromising the safety of passengers. Therefore it should be made clear that the assistance obligation relates to the boarding and disembarking, in line with the specifications contained in Annex I (b).
- There is still a lack of appropriate infrastructure for disabled persons and persons with reduced mobility both at terminals and at stops along

the service routes.

- Right to assistance on board – It is not possible to ask bus and coach operations to do this because it would not be financially viable for them to deliver this level of service.
- Training - There is a need for bus and coach operators to provide specific training to their personnel enabling them to properly assist disabled persons and persons with reduced mobility. Such training should be provided within the framework of Directive 2003/59/EC on the qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passenger. Member States should – to the extent possible – support the bus and coach undertakings in the setting up and execution of appropriate training programmes.

Chapter IV: Operator obligations in the event of interrupted travel

Q8 – Paragraph 33		
<p>Do you have any comments on the Commission’s proposals regarding operator obligation in the event of disrupted travel in particular:</p>		
<p>a) the provision of alternative transport services, or if that is impractical, to be informed of alternative transport services provided by competitors, and the proposed compensation levels?</p>	<p>Yes <input type="checkbox"/></p>	<p>No x</p>
<p>b) the requirement to provide information in the event of delay?</p>	<p>Yes <input type="checkbox"/></p>	<p>No x</p>
<p>c) should a distinction be made between factors within and outsider of an operator’s control?</p>	<p>Yes x</p>	<p>No <input type="checkbox"/></p>

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Please explain your reasons or add any additional comments you wish to make:

- Responsibility in the event of cancellations and long delays – Passenger transport by road operations are unfortunately far more exposed to traffic and accidents in comparison to other forms of transport by air and sea. Therefore there is an obvious potential for cancellations and delays.
- Provision of information 1) – Again the driver had no control over the departure and arrival time due to the unpredictable traffic on the roads.
- 2) A bus driver doesn't have the opportunity to find another route because they are driving and need to stay in control of the vehicle.

Chapter V: Information for passengers and handling of complaints

Q9 – Paragraph 36

Do you have any comments on the Commission's proposals regarding information for passengers and handling of complaints?

Please explain your reasons or add any additional comments you wish to make:

Chapter VI: Enforcement and national enforcement bodies

Q10 – Paragraph 40

Do you have any comments on the Commission's proposals regarding enforcement and national enforcement bodies?

Please explain your reasons or add any additional comments you wish to make:

- National enforcement bodies should be completely independent, i.e. not only of bus and coach undertakings.
- These bodies shall cooperate with organisations representing bus and coach undertakings and consumers, including organisations representing disabled persons and persons with reduced mobility.
- The cooperation of national enforcement bodies with these organisations would facilitate the implementation and enforcement of the regulation.

Impact Assessment

Q11 – Paragraph 41

Do you have any comments on the costs and benefits identified in the Government’s initial impact assessment?

Please give supporting evidence wherever possible (monetary figures would be welcomed). In particular it is important that we identify the impact on local bus services (including local cross-border services in Northern Ireland) in order to provide evidence of the potential consequences of the various provisions on such services if they are not excluded from the Regulation.

Please explain your reasons or add any additional comments you wish to make:

If you have any other general comments that you would like to make concerning this consultation, please give them here:

- Unites policy is that transport should be fully accessible for disabled passengers in urban areas and a mixed fleet availability for disabled passengers in rural areas.
- Although with this said Unite knows that there isn't a vehicle that has been built that can satisfy the needs of all fully able and disabled passengers and may never be due to the different demands not just between fully able and disabled passengers but different types of disabled passenger like wheelchair and blind passengers for example.
- Therefore the different types of vehicles and the difference between Urban transport and transport by coach makes it impossible to just make one type of ruling. There needs to be a regulation for the urban transport and the transport by coach.
- Bus and coach operations do not have terminals or the time to load, unload and check passengers and luggage in the way they can in aviation and rail for example.
- Drivers rest periods would clearly be compromised by the proposed regulation, which is dangerous for the driver and passengers as well.

Please send this completed form to: laura.teale@dft.gsi.gov.uk

or by post to:

Laura Teale
EC Bus and Coach Passenger Rights Consultation
Department for Transport
Zone 3/11
Great Minister House
76 Marsham Street
LONDON
SW1P 4DR

The deadline for responses is: 14 April 2009