

Consultation on proposals to allow Ministers to relax the EU cabotage rules for car transporters during the peak registration periods

May 2012

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Department for Transport
Great Minster House
33 Horseferry Road
London SW1P 4DR
Telephone 0300 330 3000
Website www.dft.gov.uk

General email enquiries FAX9643@dft.gsi.gov.uk

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1. FOREWORD

WHO SHOULD READ THIS DOCUMENT?

1.1 The following will have an interest in this document, which applies in England, Wales and Scotland only:

- Vehicle manufacturers;
- Car transporter companies;
- Car retailers;
- Representative bodies of above organisations;
- The Vehicle and Operator Services Agency and the Police;
- Road haulage operators and representative bodies.

WHAT ARE WE SEEKING VIEWS ON?

1.2 The Department would like to introduce new secondary legislation which will allow Ministers to selectively relax the application of EU cabotage rules in GB - specifically aimed at non-GB car transporters at the peak car registration periods. The relaxation of the rules would mean that such vehicles would not be liable to enforcement action if they go beyond the normal EU cabotage limits during the designated peak periods.

2. HOW TO RESPOND

2.1 As the proposals have been developed with and have the broad support of some key trade bodies it has been decided to have a 4 week consultation period. The consultation period began on 9 May 2012 and will run for 4 weeks until 5 June 2012. Please ensure that your response reaches us before the closing date. If you would like further copies of this consultation document, it can be found at <http://www.dft.gov.uk/consultations> or you can contact Francis Liston if you would like alternative formats (Braille, audio CD, etc).

2.2 Please send consultation responses to:

Francis Liston

Freight, Operator Licensing and Roadworthiness Division

Department for Transport

3/23 Great Minster House

33 Horseferry Road

London SW1P 4DR

Phone number: 020 7944 4503

Fax number: 020 7944 9631

Email address: francis.liston@dft.gsi.gov.uk

2.3 When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

Freedom of Information

2.4 Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

2.5 If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

2.6 In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

2.7 The Department will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

3. THE PROPOSALS

BACKGROUND

3.1.1 EU Regulation 1072/2009 included new rules in relation to road haulage cabotage (cabotage is a domestic road haulage operation undertaken by non-resident hauliers on a temporary basis). Translated into domestic law, this resulted in non-GB goods vehicles being limited to carrying out no more than 3 loaded operations within a 7 day period of arrival in GB. (After 3 loaded domestic journeys or 7 days the vehicle must leave and re-enter GB with a new international load to be able to undertake another 3 domestic journeys).

3.1.2 Under the previous EU legislation the definition of what is temporary was not specified and open to flexible interpretation across the EU. The new simplified rules were formally adopted in GB through an amendment to the Goods Vehicles (Licensing of Operators) Regulations 1995 made by regulation 2(4) of the Goods Vehicle (Licensing of Operators) (Amendment) Regulations 2010 which came into force on 14 May 2010.

3.1.3 Generally, the clarity provided by the rules has been welcomed by industry. However, the explicitness of the new rules has had an identified impact in one area, which is the ability to move motor vehicles in peak periods of demand (i.e. in the new car registration peaks in each March and September). Large car transporting vehicles are highly specialised and are not used for other purposes. General haulage vehicles are not suitable for the effective distribution of cars. The core demand outside of the peaks is satisfactorily met by GB vehicles operating domestically. To meet the peak demand vehicles from other EU Member States have been used to supplement the GB fleet. What the new cabotage rules have done is restrict the amount of work that a non-GB vehicle can legally undertake on each visit to GB.

3.1.4 The UK automotive/car transporter sectors did not initially recognise the impact of the new cabotage rules on their seasonal use of non-GB car transporters during peak periods. Car transporter companies have traditionally employed non-GB car transporters during peak period each year to assist in servicing the two UK sales peaks. The new cabotage rules substantially constrain this practice due to the limitation on the number of journeys allowed and the period in which operations are permitted.

3.1.5 Industry through the Society of Motor Manufacturers and Traders (SMMT), the Road Haulage Association (RHA), ECM (a car transporting company based in Carlisle) and ECG, the European Association of Vehicle logistics and others, have lobbied Ministers and officials highlighting the potential damaging impacts on car makers and dealers of the restrictions. In effect, customers are not able to legally move the volume of cars needed to be moved in peak periods. There are cases we have been made aware of when exports have been delayed as a result of the inability to move enough vehicles in and out of ports since the new rules were introduced.

3.1.6 A solution suggested by the industry is to allow unlimited cabotage movements by non-GB car transporters during each March and September. They claim that the dis-application of the cabotage limits will ensure enough supply of the specialised car transporting vehicles in the market to deliver cars to and from dealerships, ports and factories. This would in effect put them back into a similar position as existed before the EU changes to the cabotage rules.

3.1.7 During discussions with industry the RHA made it clear that any potential relaxation of the EU cabotage rules should only be granted for a limited period and when the appropriate UK operator resource is fully engaged. They were also keen that a relaxation for car transporters should not set a general precedent towards a wider relaxation of cabotage rules.

3.1.8 The Department has considered various options in order to tackle this issue. The Traffic Commissioners, who administer the GB Operator Licensing system, were consulted to see if there was any scope within existing GB legislation which would allow GB operators to specify foreign car transporters on their operator licences. The Deputy Senior Traffic Commissioner advised that this would not be possible under existing legislation.

3.1.9 Officials considered if it was possible to allow Ministers to selectively relax the EU cabotage rules under other GB legislation but this was not possible; the only option is to introduce secondary legislation to effect the selective relaxation in journey or time limits for non-GB vehicles.

3.1.10 In addition to the requirement to meet car transporter peak demand it is also possible that circumstances may arise where it would be desirable to increase supply chain resilience through the temporary suspension of cabotage journey and time restrictions in GB. Circumstances may include weather events or other interruptions to supply chains where capacity to move vital goods cannot be sustained by the GB industry. In such circumstances it may be desirable to allow Ministers to have powers to suspend the cabotage journey or time limits for the movement of nominated goods for a defined period of time.

NEW SECONDARY LEGISLATION

3.2 The Department therefore proposes that the following changes to secondary legislation are made:

3.2.1 The Goods Vehicles (Licensing of Operators) Regulations 1995 (Schedule 3, part 1, paragraph 23) exempts a goods vehicle from the requirements of operator licensing "which is being used to carry out a cabotage operation consisting of national carriage for hire or reward on a temporary basis in the United Kingdom in accordance with the provisions of Regulation EC 1072/2009...." A new category of permitted cabotage will be needed to permit a relaxation of the cabotage restrictions to allow a targeted relaxation of the rules. This will require an amendment to be made to paragraph 23 of Part 1 of Schedule 3 to the Goods Vehicles (Licensing of Operators) Regulations 1995.

3.2.2 Article 5 of the Motor Vehicles (International Circulation) Order 1975 exempts from the payment of vehicle excise duty a vehicle for so long as it is being used for a cabotage operation within the scope of Regulation 1072/2009. An amendment would be required to be made to that Article by an Order in Council (subject to the affirmative procedure) to take account of the further category of cabotage operations created by the amendments to the Regulations referred to in paragraph 1 above.

3.3 Any Regulations proposed now would only cover car transporters as the prime reason for introducing secondary legislation is to relax the cabotage rules for car transporters. However, the Department would like the legislation to be amended in such a way that the cabotage rules could be relaxed by future secondary legislation for other sectors or categories of vehicle should the need arise in the future.

4. CONSULTATION QUESTIONS

Q1. Do you believe that there is a problem concerning the transportation of cars at the peak registration periods in March and September?

Q2. If the EU cabotage rules were relaxed during the peak registration periods would this have any detrimental effects on the UK car transportation/haulage sectors? If so, please explain how?

Q3. Do you believe that maintaining the status quo (do nothing) is viable in the long term?

Q4. Are there any alternative options we should consider pursuing to deal with the issue of car distribution other than to introduce new secondary legislation?

Q5. Do you agree that the new secondary legislation should be restricted to car transporters only, but drafted in a way that would make it possible to capture further categories of vehicle at a later date by future secondary legislation?

Q6. Do you believe that this targeted consultation will reach the most affected sectors/organisations on this issue?

Q7. Will a relaxation help your business and if so, how?

Q8. Will a relaxation hurt your business, and if so how?

Q9. Is there anything we need to know?

Q10. Do you agree that the Impact Assessment is accurate - in particular the analysis of costs and benefits?

Q.11. Do you have any data that might be useful for the Impact Assessment?

Q.12. Other comments or concerns - please advise?

5.WHAT WILL HAPPEN NEXT

A summary of responses, including the next steps, will be published within three months of the consultation closing on (web address). Paper copies will be available on request.

When responding to the consultation, please comment on the analysis of costs and benefits, giving supporting evidence wherever possible.

Please also suggest any alternative methods for reaching the objective and highlight any possible unintended consequences of the policy, and practical enforcement or implementation issues.

6. ANNEX A CONSULTATION CRITERIA

The consultation is being conducted in line with the Government's Code of Practice on Consultation. A full version of the Code of Practice on Consultation is available on the Better Regulation Executive website at <http://www.bis.gov.uk/files/file47158.pdf>

If you consider that this consultation does not comply with the criteria or have comments about the consultation process please contact:

Chris Simon

Consultation Co-ordinator

Department for Transport
Zone 1/14 Great Minster House
London SW1P 4DR

Email consultation@dft.gsi.gov.uk