Consultation: Posting of Road Transport Workers and Additional Operator Licensing Changes

August 2022

Summary of Logistics UK View

- The Internal Market Information System is a positive development in regards to demonstrating compliance once, rather than up to 27 different times, so should continue to be used.
- The Trade and Cooperation Act places obligations on road transport operators in Great Britain and in the European Union and therefore should be enacted in parallel by both jurisdictions.
- Road transport operators should face the same penalties for non-compliance in both jurisdictions.

About Logistics UK

Logistics UK is one of Britain's largest business groups and the only one providing a voice for the entirety of the UK's logistics sector. Our role, on behalf of over 19,000 members, is to enhance the safety, efficiency and sustainability of freight movement throughout the supply chain, across all transport modes. Logistics UK members operate over 200,000 goods vehicles - almost half the UK fleet - and some one million liveried vans. In addition, they consign over 90% of the freight moved by rail and over 70% of sea and air freight.

Response

This response was compiled following discussions with members across the UK and based on Logistics UK policy positions already agreed by the members.

Questions for all respondents:

Q1: To what extent do you agree or disagree that the ability of the competent authorities (the Traffic Commissioners in Great Britain, and the Traffic Regulation Unit in Northern Ireland) to consider postings as an issue for licensed operator and transport manager repute is sufficient to encourage UK operators to respond when asked for postings information further to requests from EU Member States' authorities?

- Strongly agree - Somewhat agree - Neither agree nor disagree - Somewhat disagree - Strongly disagree

Good repute is one of the mandated criteria that must be satisfied by the Traffic Commissioner when applying for, and holding, a standard national and international operators' licence. Loss of good repute is a grave threat to an operator's ability to keep trading and any requests for further information will be taken very seriously if there was a possibility that repute could be lost.

The Trade and Cooperation Act (TCA) sets out the obligations that need to be met when UK vehicles are involved in cabotage or cross trade operations in the European Union (EU), and for when EU vehicles are performing similar operations in Great Britain.

The Internal Market Information System (IMI) represents a positive step forward for UK operators to produce posting declarations to show compliance as this is a pan-EU system, rather than the individual member State level declarations that were required prior and caused significant administrative burden.

A request for further information made to the UK competent authority from the relevant EU enforcement body results from a failure to produce, at the roadside, the required evidence of posting, either in form of paper or digital version of the posting declaration made on the IMI.

Logistics UK expects parallel conditions to be put in place by the 27 EU competent authorities and that the lost of good repute is the same penalty for EU operators who consistently fail to provide further evidence, if so requested, by the UK authorities.

Q2: To what extent do you agree or disagree with the proposal that operators who fail to make a Posting Declaration and refuse an EU authorities' request for information, but subsequently comply with DVSA requests, be spared enforcement/fines? For the benefit of doubt, an operator who fails to comply with DVSA requests would be fined regardless.

- Strongly agree - Somewhat agree - Neither agree nor disagree - Somewhat disagree - Strongly disagree

Logistics UK would always advise its members to comply with the posting regulations and ensure that the IMI declaration is made before the journey begins.

Any operator that ultimately complies with DVSA requests for further information should be spared enforcement/fines that result from failure to declare the relevant information on the posting operation – notwithstanding any enforcement that results from proven wilful non-compliance.

Q3: To what extent do you agree or disagree provision that Posting Declaration obligations in the TCA related to EU drivers and operators undertaking cabotage in the UK should be made legal requirements in Great Britain (i.e. a statutory requirement in Great Britain for EU operators to have completed the Posting Declaration processes)?

- Strongly agree - Somewhat agree - Neither agree nor disagree - Somewhat disagree - Strongly disagree

The rules should be the same for operators of both jurisdictions, i.e. the EU and GB, and therefore should be enacted in domestic legislation for EU vehicles when performing operations that fall under the posting requirements in GB.

Q4: Should the UK authorities make the possession of Posting Declarations during cabotage by EU operators a higher or lower priority than enforcement of the maximum numbers and timing of cabotage transports?

- Higher priority - Lower priority - Same priority

The IMI posting declarations are required to be held by the driver of the vehicle, during the journey, either in written or digital format. A DVSA official at the roadside should consider possession of the declaration as important as enforcement of the maximum number and timing of the cabotage transports.

As the posting declaration will have been produced before the journey begins, it could also form part of the evidence base in any investigation on the timing of cabotage transports and compliance with the 2 operations in 7 days rule.

Chris Yarsley
Road Freight Regulation Policy Manager
Logistics UK
cyarsley@logistics.org.uk