



## **Resolution**

### **European Commission's Transport White Paper**

Adopted at the Executive Committee on 19-20 October 2011

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#### **Introduction**

In March 2011, the Commission published the White Paper “Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system” aiming to respond to the challenges facing the transport sector. Although the ETUC shares the Commission’s concern that the current transport system is not sustainable, the strategy presented by the Commission does not provide satisfactory solutions to the different challenges. The public service dimension is completely missing in the White Paper.

Furthermore, by setting the target date to achieve a more sustainable transport sector by 2050, the Commission gives up on its responsibility to act, although technological alternatives and short term measures exist that would impact significantly on the urgent need for reducing transport’s share in greenhouse gas emissions. The Commission promotes further continuing transport growth within policy frameworks “relying to the greatest extent possible on market based mechanisms” instead of taking responsibility in regulating trends and habits and in earmarking and using additional financial resources for much needed environmentally sustainable infrastructure.

#### **The public service dimension of transport**

Mobility is important both for the quality of life of workers and citizens and for the functioning of the internal market at large. Transport services should allow for the harmonious development of a Member State territory, including its most secluded areas, and express solidarity between all its inhabitants, regardless of their place of residence. Transport, therefore, cannot be treated as an ordinary economic service. This is clearly stated in the European Treaties. Article 14 TFEU expressly recognises the place occupied by services of general economic interest in the “shared values of the Union” as well as “their role in promoting social and territorial cohesion”. According to Article 36 of the legally binding Charter of Fundamental Rights, “the Union recognises and respects access to services of general economic interest as provided for in national laws and practices, in accordance with the Treaties, in order to promote the social and territorial cohesion of the Union”.

The creation of a Single European Transport Area, as currently envisaged by the Commission, raises a number of serious concerns. First, the Commission aims to create “a true internal market for rail services” by opening the domestic rail passengers market to competition, which would include mandatory award of public service contracts under competitive tendering. Current rules on public procurement do not sufficiently allow for social and environmental criteria being considered in tendering and they should be revised before any further tendering can take place.

The Commission is simply following an ideological approach and ignores Protocol 26 of the Lisbon Treaty, which underlines the role of local, regional and national authorities to provide SGIs. The ETUC calls on the Commission to recognise the essential role of local and regional authorities in the organisation of their public passenger transport. The EU has been liberalising the transport sector for two decades but no serious evaluation has taken place. In order to learn from its mistakes, the EU needs to analyse the consequences not just in terms of the internal market but also measuring the effects on solidarity, cohesion and subsidiarity.

Secondly, the White Paper disregards a crucial aspect for the sustainability of SGEI: the financial compensation for public service obligation. The Commission is indeed intending to “remove tax distortions and unjustified subsidies” as “undistorted competition is part of the effort to align market choices with sustainability needs (and to reflect the economic costs of non sustainability)”. Without financial compensation, the service provider would not have an incentive to perform tasks which are less economically profitable but fulfil an essential role in terms of social and territorial cohesion. In other words, free competition in the transport sector means that providers would select the most profitable parts of the service. The fundamental principle of accessibility for all users would be disregarded.

Thirdly, the ETUC cannot accept that the costs of transport would be reflected in its price “in an undistorted way”. The idea that public transport passengers should be paying the full cost of the service goes against the concept itself of public service but also counters the efforts to promote collective transport as an alternative to private transportation. Moreover, this means that some regions and services would be disadvantaged, in particular in less populated areas. The principle of universality, which is a defining principle of a public service obligation, would be set aside.

### **Quality jobs and working conditions**

As a counterbalance to the liberalisation of transport, the Commission claims that “market opening needs to go hand in hand with quality jobs and working conditions”. The White Paper, however, offers little solutions in this area. It appears that the Commission adopts a traditional internal market approach, whereby intervention in the social area is not motivated by the need to promote social progress but with a view to create sufficient convergence to remove the barriers to the internal market.

The White Paper encourages the “social partners in view of an agreement on a social code for mobile road transport workers, addressing also the problem of disguised self-employment”. Whilst the ETUC does encourage concrete initiatives aiming at tackling the difficult issue of fake self employment, the proposals exposed in the White Paper are very vague. It seems that the Commission is envisaging sectoral social dialogue to ensure a harmonised set of social, security and competition standards in road transport evenly applicable in the Member States.

The ETUC would like to emphasise that the Commission must not give up its key responsibility with regard to social, security and competition standards. The Commission needs to take measures to better enforce the sectoral legal framework, as well as to consolidate it to respond to the challenges.

The relevant sectoral organisations will have to discuss the opportunity of holding negotiations but already it is clear that this solution on its own cannot respond to the current challenges. The EU has no competence to fully harmonise labour law standards. It can only introduce minimum standards – a “floor of rights” below which Member States are not

allowed to go but which they often improve. Besides, the EU legislator is under the obligation to respect the diversity of national industrial relations systems.

In other words, a European social code cannot mean that the national dimension of labour law should be bypassed. The role of the national legislators and social partners remains essential. A very problematic aspect with regard to cabotage is the lack of enforcement of national labour law and collectively agreed labour standards. More efforts should be put towards the increasing of national and cross border control measures, not their eradication. Moreover, the Commission needs to make sure that Member States enforce the Posting of Workers Directive and that it is implemented and controlled in conjunction with cabotage, and that they ensure that operators meet their tax obligations in those countries hosting cabotage operations.

Furthermore, the Commission proposes to establish in the aviation sector a “Europe-wide minimum service (...) and to encourage the European social partners to address the issue of prevention of conflicts and of disturbance of minimum service in the whole aviation value chain”. The ETUC will strongly oppose any interference with the fundamental rights to collective bargaining and collective action. Article 153.5 TFEU clearly states that the EU does not have any competence regarding the right to strike.

## **Conclusions**

The development of an internal market for transport requires a strategy that takes into account not only economic and environmental challenges but social as well. The Commission should impose rules based on safety, quality, accessibility and respect for the environment and working conditions on all operators on the European transport market. For this, it is necessary to move away from the current ideological approach, according to which the liberalisation of the transport sector is a key principle whilst experience already shows that a free market approach does not per se contribute to the smooth running of public services (for instance the impact of liberalisation measures in the energy sector).

The ETUC therefore urges the Commission to adopt a radically new approach, taking into account the general interest dimension of the transport sector, and to look at labour standards not as a barrier to further liberalisation but as an essential component for the quality and the sustainability of the sector. Free markets alone do not generate sufficient incentives to ensure the fulfilment of public service obligations.

The ETUC supports the ETF proposal to set up a social and environmental observatory to assess the effects of liberalisation in the transport sector to date. The observatory should be responsible for analysing policies and measures related to transport and to make recommendations as appropriate. Assessments and studies that already exist should be disseminated widely. The European transport system will only be sustainable if the social pillar is strengthened. This should include the obligation to establish a social impact assessment before any decision is taken in this area.

The ETUC is calling for a moratorium on liberalisation in the transport sector until a proper evaluation of previous liberalisations has been conducted notably by the proposed observatory.

The ETUC is also demanding that the current public procurement framework is revised to allow for social clauses before any further expansion of tendering can take place.