



Working Party No. 2 on Competition and Regulation

**ROUNDTABLE ON REGULATION AND COMPETITION ISSUES IN ROAD
TRANSPORT**

-- Note by Turkey --

The attached note is submitted by the Delegation of Turkey to the Working Party No. 2 FOR DISCUSSION at its next meeting on 27 october 2000.

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The Transport Industry of Turkey (Road Freight/ Road Passengers/ Taxi)

1. Regulatory Regime

(1.1) Within the boundaries of Turkey, in land transport, goods and passenger transports, authorities that carry out regulatory activities within the boundaries of municipality and regulations outside the boundaries of municipality differ from each other. Outside the boundaries of municipality, the power to make a regulation in load and passenger transport services via highway whose carrying distance exceeds 100 km rests with the General Directorate of Land Transport which serves as the main service unit at the Ministry of Transport central organisation. Below-listed are the duties of this General Directorate determined by article 10 of the Act dated 9 April 1987 and numbered 3348 which sets the organisation and duties of the Ministry of Transport:

- a) To take measures ensuring that the railway transportation and highway transportation on road outside the boundaries of municipality are carried out in accordance with economic, technical, social and national security needs and purposes, and that these services are in harmony with other transport services;
- b) To conduct international relations required by highway and railway transport services, to conclude agreements and perform joint commission works, to follow up the legislation, technological and economic developments at the international level in highway and railway transport, and to develop new solutions fitting the rules;
- c) To arrange the eligibility qualifications of transporters, agencies and brokers who shall take place in highway transport activities, to issue authorisation certificates and supervise where needed;
- d) To take measures ensuring that activities conducted by the public and private sector in highway transportation develop in accordance with the public interest and market requirements, to determine the ceiling and floor prices and supervise the practice when needed;
- e) To take or have others take measures in order to provide safe, quality and economic service in highway and railway transportation;
- f) To perform similar duties to be assigned by the Ministry."

As to the General Directorate of Land Transport operating throughout the country, its services in international goods transportation via highway and in domestic passenger transportation via buses are conducted by 10 Regional Directorates of Transport under the Ministry of Transport, and by Branch Directorates and Head Offices under the Regional Directorates. Powers and responsibilities assigned to the Ministry of Transport by regulations have been transferred to Regional Directorates, thus spreading services to the whole country. The General Directorate of Land Transport serving in the mentioned organisation has, over the firms dealing with land transport, the powers to determine the eligibility qualifications, permit operation and supervise. In exercising such powers, the goal is set as ensuring that land transport activities are carried out in accordance with economic, technical, social and national security needs and purposes, and that these services are in harmony with other transport services. Associations of lorry carriers and passenger transporters via bus whose members comprise owners of firms operating in

international highway transportation act as intermediaries in the presence of the government and firms concerned against sectoral deficiencies.

On the other hand, in transports with a 100 km transport distance or between settlement points within the boundaries of the province, the power to make a regulation rests with governors' offices. And, as to the passenger transports within the boundaries of a province via bus, minibus, taxi and service-bus services, the power to make a regulation rests with the municipality, police, gendarmerie, National Education, Road Provincial Directorates and relevant chambers of tradesmen under the Turkish Chauffeurs and Automobile Drivers Federation, headed by the governor or deputy governor, and provincial traffic commissions composed of university, foundation, association representatives deemed appropriate by the governor's office. For purposes of ensuring traffic coordination within the boundaries of metropolitan municipalities, coordination is provided in mass transportation by means of establishing a transport coordination centre (UKOME). The owners of privately-owned public buses, minibuses and taxis operating in intra-city transportation should possess the qualification of a tradesman, and are obliged to register themselves in chambers of tradesmen. The said chambers of tradesmen and unions of tradesman composed by them set the most important industrial groupings.

- (1.2) Within the Ministry of Transport; works are in progress for putting into force the "Regulation About Inter-City Goods Transports Via Highway" which is prepared so as to render orderly and safe the inter-city goods transport services via highway, and to determine the eligibility qualifications and working conditions, supervision principles, powers and responsibilities of carriers, transport warehouse and cargo operators, and natural and legal persons who shall act as agencies and transport works brokers in such services.

On the other side, works are also underway for putting into force the "Highway Transport Draft Law" which is prepared with the aim of organising highway transports as required by the country's economy, ensuring transport safety and preventing unfair competition, arranging the principles regarding the organisation of passenger and goods carriers, and ensuring that available resources in highway transports are utilised in a more beneficial manner.

In line with the Customs Union concluded by the EU, works are being carried out in order to render also the legislation in harmony with the legislation of the European Union.

Works of the traffic commission set up within the Turkish Grand National Assembly are in progress, and things to be done are examined for purposes of diminishing traffic accidents and arranging safe travel and transport conditions. With the termination of the works, new amendments to the Act may arise.

- (1.3) In international transport services via highway and in inter-city passenger transport services via buses; natural or legal persons who would like to deal with passenger and goods transportation or act as agencies or brokers in these areas are obliged to receive an authorisation certificate from the Ministry of Transport in accordance with the regulations in force. The units of the Ministry of Transport determine and supervise at border gates, supervision points and necessary places whether international passenger and goods transports via highway are performed with authorised carriers and vehicles, and the compliance of passage, quota and fare conditions with bilateral and multilateral agreements. Furthermore, in inter-city passenger transportation; carriers, transports, agencies and employees in transport works, passenger terminals and relevant works and services are also subject to the supervision of the Ministry. While issuing an authorisation certificate in inter-city passenger transportation via buses, the most important licensing conditions sought are determined as follows by the regulation provided: not to have been punished due to

miscellaneous offences, compulsory individual accident insurance for seats, firm's owning 3 vehicles itself, being involved in the group of carriers in the chamber of commerce, having legal personality, having an independent office where to operate, buses by which the transport shall be performed would have more than 25 seats. For various services in international goods and passenger transportation, first various qualifications are sought such that natural and legal persons should have T.R. nationality, should not have been sentenced due to miscellaneous offences, should possess several number of vehicles determined by the type of transportation, should be registered in the chambers of commerce and industry, should receive professional education from the institutions determined by the Ministry. Also, there are capacity and age limits as to vehicles to be used by carriers in international passenger and goods transports. In intra-city transportation transactions, those people who shall act as commercial minibus, bus and taxi operators are required to be registered in relevant chambers and have the qualification of a tradesman who earns his living by this job.

In terms of amount of licences, there does not exist any limitation in international goods and passenger transports and in inter-city goods and passenger transports. One does not face a restriction in applications bearing the qualifications for receiving an authorisation certificate. However, restriction exists in intra-city bus, minibus, taxi and service-bus vehicle licences. Requests for restriction established by provincial traffic commissions pursuant to the principles determined by the resolution of Council of Ministers, enter into force by the approval of the Minister of Internal Affairs. As of the end of September 2000, there is limitation in the number of taxis and minibuses in 21 out of 81 cities of Turkey. Any time limitation does not exist in issuing licences; those who apply with the documents requested are granted permission and controls are performed later. In international transport certificates, final permission is granted by detecting the accuracy of documents and conditions via the controls performed after giving temporary authorisation. The incumbent operators do not have an official role in the permission procedure.

Different licences should be obtained in the provision of different services. Authorisation certificates are listed as follows in international transportation: authorisation certificate A for those to engage in international passenger transportation via automobiles; authorisation certificate B for those to engage in international passenger transportation via buses; authorisation certificate C for those to engage in international goods transportation via highway; authorisation certificate E for public organisations or organisations serving the public interest to engage in international transportation; authorisation certificate F for those to act as agencies in international passenger transportation; authorisation certificate G for those to act as agencies in international goods transportation; authorisation certificate H for those to act as brokers in international goods transportation. Authorisation certificates B and C also fall into sub-licences by ways of transportation. Different authorisation certificates are sought so that inter-city passenger transportation can be carried out on road via buses. These certificates are as follows: authorisation certificate (D1) for those to engage in regular inter-city passenger transportation via buses; authorisation certificate (D2) for those who carry pre-grouped passengers from a point of departure to the same point of departure by return trips; authorisation certificate (D3) for those to engage in transportation by organising trips dependent on the state of passengers without adhering to a certain schedule; authorisation certificate (D4) for those to engage in inter-city passenger transportation related with the main occupation of the vehicle owner; authorisation certificate (E1) for public organisations and organisations serving the public interest to engage in inter-city passenger transportation; authorisation certificate (F1) for those to act as agencies in inter-city passenger transportation. It is observed from the characteristics of authorisation certificates that different authorisation certificates are needed for regular and charter trips. Besides, in the distribution of intra-city minibus and taxi number plates, distribution can be made

by tenders where persons registered in relevant chambers and qualified as tradesman can participate. There is no limitation in one firm's holding more than one licence. Licences are granted to natural or legal persons, and may not be transferred. It is required that firms holding licences have T.R. nationality, and there is no limitation in terms of partnership. In international passenger and goods transportation, there is term limitation for a total of 5 years such that 1 year is for temporary authorisation certificates and 4 years for principal authorisation certificates. On the other hand, the term for any kind of authorisation certificates is 2 years in inter-city passenger transportation. It is possible to extend the terms of certificates with the conditions established by regulations.

In transportation transactions at the local level, line and time coordination is ensured by provincial traffic commissions and UKOMEs whose characteristics are described under the section (1.1).

- (1.4) Any distinction does not exist in regulations made for taxi services. In taxi transportation to take place from particular points such as airports, train stations, bus terminals, persons other than those who have stops at the places mentioned are prohibited to take passengers. As to taxis, same regulations are being implemented throughout the country, and prices vary by cities. That taxis are yellow in colour and their number plates start with the letter "T" has become a standard. Though there is no limitation in working hours of taxis, there exist general limitations concerning the shift of drivers during the day, and regarding that they should not use vehicles more than a particular period. Any limitation is not present for working at holidays or nights, and vehicles remain in service dependent on the market conditions.
- (1.5) In the land transport sector, any price regulation and control do not exist in relation to international transports. In inter-city passenger transports via highway, setting of prices is left to carrier firms in accordance with the provisions of the regulation concerned, but it is established that tariffs introduced are subject to approval by the regional directorates. It is among the provisions of the regulation that 25 % discount may take place from prices set and subjected to approval by the carrier firm. In lines where transportation takes place, there is no ceiling or floor price set by the public authority. Carrier firms are obliged to comply with tariffs set by them for a minimum of four months, and it is provided that price changes shall not take place during bairam and bank holiday periods. Though there is no price regulation by the public authority, it is mentioned that floor and ceiling prices shall be regulated by the Ministry where necessary, should transport prices yield results against the economy and public interest, and should an excessive pricing practice or a predatory competitive environment arises. On the other side, in intra-city minibuss and taxi services, there is the practice of line fare and taximeter. Prices are set by the chambers of tradesmen concerned as per the power derived from their special Acts, and enter into force by the approval of the federations of chambers of tradesmen. In passenger services, there is no such practice where competition is restricted or subsidized by the public authority in any manner.
- (1.6) In accordance with the provisions of the "Regulation About International Passenger and Goods Transports Via Highway", the units of the Ministry of Transport determine and supervise at border gates, supervision points and necessary places whether international passenger and goods transports via highway are performed with authorised carriers and vehicles, and the compliance of passage, quota and fare conditions with bilateral and multilateral agreements. It is required that firms to deal with transportation within the boundaries of Turkish Republic have T.R. nationality. Foreign firms are allowed in cases of transit transportation and imports. Cabotage provisions are applied in domestic transportation.

It is required that standards attained generally among the European countries through agreements in order to facilitate international trade in transport services, also extend to the middle east and asian countries.

2. Market Information

- (1.7) About 95 % of passenger transportation undertaken within the boundaries of Turkish Republic takes place via highway. The largest share is that of land transportation in transporting goods as well. The number of firms and vehicles constantly increase owing to the fact that there are not many barriers to entry to and operation in the sector, and it sets an example for a competitive market. As of the end of July 2000, there are 146.673 minibuses, 515.208 lorries, 821.716 small lorries, 133.695 buses and 32.624 large lorries within the boundaries of Turkish Republic according to traffic registration entries.

As of the end of July 2000, there are 152 firms, 1373 buses and 67.528 seat capacities awarded an authorisation certificate from the Ministry of Transport for temporary international passenger transportation via highway. Likewise, as of the same date, the number of firms receiving an authorisation certificate from the Ministry for international goods transportation via highway reached 888, and the fleet of vehicles owned by themselves reached nearly 853 thousand tons. International highway transportation services take place pursuant to bilateral and multilateral international highway transportation agreements. Today, we have bilateral international highway transportation agreements with 48 countries, and agreements have been initialled with 3 countries. As required by the agreements in question and protocols signed in relation to these agreements, passage certificates are in use for bilateral, transit, loaded-on-return and third country transports. Within the framework of bilateral international highway transport agreements and protocols signed in relation to these agreements, 278.850 passage certificates have been obtained from 35 countries, and 204.291 of them have been utilised in transporting our export and import products. Market shares of firms operating in international land transportation remain low due to high number of firms.

The number of firms dealing with inter-city passenger transportation at the national level reached 572 by the end of July 2000, and the number of buses reached 9.800. There is no limitation as to vehicles operated by firms. In inter-city passenger transportation markets, low market shares arise due to high number of firms operating both throughout the country and in terms of particular lines. It may be said that the sector presents a competitive structure with its characteristic denoting a surplus of supply in terms of competition.

On the other hand, the number of commercial automobiles operating in intra-city taxi transportation reached 111.991 by the end of May 2000. Among the cities where there is limitation in taxis, there exist 17.416 taxis in Istanbul, 9527 in Ankara, 9738 in Antalya.

3. The Application of the Competition Act

- (1.9) The Competition Act does not recognise any sectoral exceptions. Similarly, it is applied in all areas of the transport sector without being subject to any exceptions and exemptions. Though the Competition Authority is commissioned with applying the Competition Act in all these sectors, it has no obligation to implement the sectoral rules. In case of a request by a unit of the Ministry of Transport which is the institution acting as regulator in these sectors, the Competition Authority may draft an opinion as to competitive conditions of regulations to be made.

- (1.11) There are investigations opened by the Competition Authority upon miscellaneous complaints that undertakings operating in these sectors committed violation of competition through price agreements concluded between themselves. In a petition of complaint filed to the Competition Authority in 1999 concerning the market of load transportation via lorries; it was expressed that in various customs fields in the city of Istanbul, there were barriers to entry in transporting imported goods, and that the cooperatives of carriers operating in those regions concluded price agreements between themselves. As a result of the examinations performed upon complaint and the preliminary research report prepared, an investigation has been opened in view of the fact that activities of the undertakings and associations of undertakings concerned may lead to violation of competition, and the investigation has not been completed yet. In another petition of complaint filed to the Competition Authority by the beginning of 2000; it was claimed that the undertaking operating İzmir inter-city bus terminal has set a lower limit for bus travel fares by routes, and thus competition was restricted. During on-the-spot examination as to the matter; it was detected that certain undertakings operating in the market of inter-city passenger transportation via highway had signed “protocols” having the nature of violating price competition between themselves. Investigation was opened in view of the fact that they concluded price agreements against 91 firms which deal with inter-city passenger transportation via highway from the city of İzmir to other cities, and that they committed violation of competition by implementing these agreements. This investigation is in progress as well. It was detected from these complaints that firms acting as carriers coordinated with organisations established by them, and that they set up partnerships in the form of cooperatives. However, it has not been decided yet whether these situations create violation of competition.
- (1.12) Claims of abuse of dominant position present in the above-mentioned events in land transportation sectors are also evaluated under the investigation. These claims are barriers to entry in the complaint as to lorry transport, and that the operator of inter-city bus terminal of the city of İzmir subjects to punishment the firms which do not comply with the price agreement leaded by it, due to its dominant position in the market of terminal operation, and makes discrimination. Within the year 2000, there was also a complaint about the operator of inter-city bus terminal of the city of Istanbul, stating that it abused its dominant position in the market of terminal operation, and discriminated between firms operating inter-city buses by applying terminal departure prices differently. In the examination performed as a result of this complaint, the claim of violation of competition was also considered to be serious, and an investigation was opened about the undertaking operating the Inter-City Bus Terminal. In a petition of complaint filed to the Authority within 1999, there were claims that minibuses operating in the city of Ankara had a monopoly position, and applied exorbitant prices. As a result of the examinations; it was concluded that initiating any transaction was not required on grounds that minibuses did not hold a dominant position in the market of passenger transportation in the city of Ankara, and that prices were set by the occupational chamber by the power derived from the special Act.