

The Danish Government's response to the Commission's consultation on the draft Land and Multimodal Transport Guidelines (LMTG) and Transport Block Exemption Regulation (TBER)

The Danish government appreciates the opportunity to comment on the European Commission's draft Land and Multimodal Transport Guidelines (LMTG) and Transport Block Exemption Regulation (TBER).

In general, Denmark welcomes the initiative to form a comprehensive and up-to-date rulebook for aid to sustainable land transport. We support adjustments of the state aid rules when needed in order to reflect market developments and the current EU's strategic priorities, including the European Green Deal.

We would like to emphasize that shifting away from road transport to other modes of transport is not the most effective or realistic approach to achieving a greener transport sector. A truly sustainable land transport system can only be realized through a transition from fossil fuel-powered vehicles to environmentally friendly options, such as electric vehicles.

We welcome that the new TBER in general will make it easier to grant state aid to this sector without prior state aid notification and approval of the Commission. With proper safeguards in place, the Danish Government appreciates efforts made to simplify the state aid rules in order to promote the green transition.

The TBER will complement the LMTG, which sets out the conditions to assess the compatibility with the Single Market of aid to sustainable land transport that is not block-exempted. We support that the proposed LMTG will replace the outdated 2008 Railway Guidelines in line with the conclusions of the Fitness Check on the existing State aid rules in the field of land transport sector.

We welcome that the draft LMTG provides further guidance on compensation for the entrustment of a public service obligation in the rail freight

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sector. Especially we welcome the Commission's efforts to provide clarity on the definition of a genuine public service obligation. Such clarifications can provide guidance to public authorities and legal certainty to beneficiaries, while keeping in mind that the Member States in general have a wide margin of discretion to determine what constitutes a public service obligation in their jurisdiction.

Specific comments

Below, we will give our comments to specific provisions in the draft LMTG and TBER.

Aid for short sea shipping transport

The Danish authorities notes that several of the provisions in the TBER and LMTG only concern State aid to inland waterways. We take duly note of the fact that the legal base for the regulation is TFEU article 93, but also article 107 and 108. We note that the draft TBER article 10 gives aid opportunities for short-sea shipping transport.

As Denmark has no inland waterways, we urge the Commission to generally ensure the same aid opportunities for Member States' support via the TBER to short sea shipping- as well as passenger transport at sea (ferries). This could benefit and support the green transition equally as State aid to companies operating on inland water ways.

Furthermore, adding short sea shipping and passenger transport to the regulation could also help relieve traffic congestion on roads in some regions of Europe and foster greener passenger transport at sea.

Regarding combined transport and the references to the directive

We note that point 35 in the LMTG mentions the expected adoption of the revision of the combined transport directive. The Danish Government finds this reference along with the reference in point 8 to be anticipating ongoing negotiations. We therefore strongly suggest that these references as well as footnote 28 in the TBER are removed from this proposal and the references are instead limited to the applicable directive 92/106/EEC in force.

Regarding the railway sector

With regards to the railway sector, we support the intention to exempt certain forms of aid for rail transport from the obligation for prior notification under the state aid rules with the aim of promoting green transport.

It is our understanding that the proposal will streamline and consolidate the Commission's practice and also distinguish between the different types of

aid. We have some remarks that we would kindly ask the Commission to take into consideration.

Recital 21 in the annex 3 to the TBER clarifies that certain categories of aid in the rail, inland waterways, and multimodal transport sector are compatible with the application of Articles 93, 107 and 108 of the Treaty. However, to align the wording, we suggest to replace the wording "rail network infrastructure" with the wording "railway infrastructure", which is used in several other contexts in the regulation. Such alignment will furthermore correspond with the parallel use of "road infrastructure" for the road sector.

In the annex to the TBER in article 2 (ee), we suggest that the wording "the entire network" is adjusted to "whole railway infrastructure" which will also apply if isolated railways are added to multimodality.

On a more technical level we have the following questions:

With regards to annex 3 to TBER and annex 5 to LMTG we kindly ask the Commission to answer or consider how it is ensured that the possibility of dual-use is not restricted or becomes insufficient due to purely commercially driven/created intermodality?

In the annex to the LMTG point 54 g, it is stated that "equipment for sustainable multimodal transport" means "equipment used in transshipment services incidental to sustainable multimodal transport, such as cranable semi-trailers, excluding mobile terminal equipment. Does this refer to the mobile transport unit or the fixed equipment which ensures the modal shift?