

AEGPL Response to the public consultation on the enhancement of social legislation in road transport

AEGPL, the European LPG association, welcomes the opportunity to share with the European Commission its views on EU social legislation concerning the road transport sector. AEGPL, as the representative of the European LPG industry, fully shares the overall goals of the European Commission to protect the health and safety of road transport mobile workers and improving road safety. For this reason, the LPG industry welcomed the approval and implementation of the Regulation 561/2006 and of the Directive 2002/15/EC, as two key instruments that ensure that the deliveries of LPG to the end consumers are carried out meeting the highest safety standards.

Overview of the problem

LPG is one of the cleanest off-grid fuels, meeting the energy needs of tens of millions of EU citizens, a vast majority being located in rural or peri-urban areas. To deliver its product to final consumers, the LPG industry uses every day several thousand road tankers, and therefore has direct experience with the implementation of this legislation. As LPG is considered a dangerous good, its transport is regulated by RID/ADR rules, which set stringent safety standards, including special requirements for vehicles carrying LPG and certification requirements for operators driving them.

During severe winter conditions, operators need to be more cautious in their work, in order to ensure that LPG is safely transported and delivered to end consumers. For this reason, more time is required to carry out deliveries because operators need to drive slower and be more careful during actual delivery of LPG to the clients' storage tanks. For instance, deliveries evidently take more time if roads or backyards are icy and slippery.

In addition, LPG companies across Europe usually receive higher demand of LPG during severe winter conditions, because more fuel is needed to keep buildings warm, if the external temperature is lower. For example, in March 2013 (the coldest March in 50 years in the UK), the UK LPG industry received orders that were 25% higher, if measured in terms of customer orders, and 62% higher, if measured in terms of volumes, than the year before. Evidently, the need to ensure timely deliveries to consumers and severe weather conditions puts a great pressure on the LPG industry, which has been making important investments to cope with the challenges posed by these conditions that are more and more frequent.

However, despite those investments, bottlenecks on the supply side can hardly be overcome without a relaxation of working time rules. On one hand, there is a maximum limit of the daily output of refineries. On the other hand, increases of LPG's storage capacity are limited by health and safety regulations and concerns. The Seveso directive prescribes that storage facilities need to be located at appropriate safety distances from "residential areas, buildings and areas of public use, recreational areas, and, as far as possible, major transport routes". In addition, despite all the appropriate health and safety requirements are met, citizens' concerns may be an additional obstacle to the creation of new LPG storage sites, as for

instance it has been recently seen in the case of the referendum on the project to build a new storage facility in Manfredonia, Italy.¹

For this reason, Article 14.2 of Regulation 561/2006 rightfully allows Member States to grant, in urgent cases, temporary relaxations of the rules for a period not exceeding 30 days. This enables LPG distributors to satisfy customers' primary needs of heat while ensuring that risks connected to the transport and delivery of the product are minimised. A few Member States have been granting temporary relaxations in connection with extreme weather conditions, which, as the ex-post evaluation study on social legislation on road transport rightfully states, are in the public interest. The study also highlights that not exempting the concerned vehicles could even contradict the objectives of the rules.²

In addition, it should be noted that not granting this exemption to off-grid fuel industries would result in significant delays in deliveries during extreme winter conditions, preventing households from using space heating and domestic hot water when they are most needed.

The specificity of the LPG industry and the need for more legal clarity

As explained earlier, driving road vehicles is only part of the tasks performed by transport operators employed by the LPG industry. A significant share of their time is spent in loading clients' storage tanks with LPG, which, in extreme weather circumstances, requires significantly more time. For this reason, in urgent cases, the LPG industry does not only – and not so much – require a relaxation to the driving time rules, but also a relaxation to the rules on the working time of mobile workers.

The LPG industry has experienced a non-uniform interpretation of the relaxation rule set in article 14.2 of Regulation 561/2006, in particular regarding the aspects that it can cover and the cases under which it can be activated. For this reason, AEGPL believes that the wording of article 14.2 should be amended in order to improve its legal clarity.

AEGPL thinks that the mechanism contained in article 14.2 could significantly be clarified by explicitly stating that it can also apply to the Directive 2002/15/EC. This would allow for a uniform interpretation that better reflects the specific needs of the LPG industry and its customers.

In addition, a non-exhaustive, indicative list of circumstances under which article 14.2 can be activated should be included in the legislation. The ex-post evaluation study clearly states that extreme weather circumstances can constitute urgent cases according to article 14.2.³ Nonetheless, in the experience of the LPG industry, some Member States have been reluctant to grant a relaxation of the rules in these cases, as they were unsure about whether legislation allowed to do so.

We believe that a vague wording such as “urgent cases” has its merits, as it can cover unforeseeable circumstances, therefore it should be kept. However, we also think that some typical cases under which Member States are allowed to grant a relaxation of the rules should be codified in a non-exhaustive list. This would improve legal clarity, while, at the same time would leave Member States enough freedom to consider other circumstances as urgent.

¹ ANSA (2016), Gas:referendum a Manfredonia,no deposito – available online:

http://www.ansa.it/puglia/notizie/2016/11/14/gasreferendum-a-manfredoniano-deposito_8a485e00-9ce1-43c9-a456-0ac9b40a469d.html

² European Commission (2016), Ex-post evaluation of social legislation in road transport and its enforcement, page 78 – available online: <http://ec.europa.eu/transport/sites/transport/files/facts-fundings/evaluations/doc/2016-ex-post-eval-road-transport-social-legislation-final-report.pdf>.

³ European Commission (2016), page 78.

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