Working Party No. 2 on Competition and Regulation

REGULATION AND COMPETITION ISSUES ROAD TRANSPORT

-- Poland --

This note is submitted by the Delegation of Poland to the Working Party No. 2 FOR DISCUSSION at its next meeting on 27 October 2000.
REGULATION AND COMPETITION ISSUES IN ROAD TRANSPORT

POLAND

Regulatory Regime

(1.1) What agency or agencies have responsibility for developing and/or implementing policies related to local, regional, inter-state or international [road freight/road passenger/taxi] regulation? At what level of government do these agencies operate? What is the broad structure of these agencies? Who are they responsible to? What are their broad objectives?

1. The Ministry of Transport and Maritime Economy (MT&ME) has a leading position in formulating and introducing regulatory policies for transport, including road transport. This covers in particular the following areas: operation and development of transport infrastructure, road traffic, transport of passengers and goods by means of road transport, public transport.

2. Efforts and activities of the MT&ME are supported in particular by: the Ministry of State Treasury (MST), Ministry of Regional Development and Construction (MRD&C) and Ministry of Economy (ME).

3. Regulation of the Prime Minister of 20 June 2000 (OJ of 21 June 2000, No. 50, item 591) lays down detailed responsibilities and competencies of the Minister of T&ME.

4. The Minister of T&ME supervises over the General Director of Public Roads, who by means of a governmental administration agency, i.e. the General Directorate of Public Roads (GDDP), is responsible for matters related to operation and development of road transport, and in particular construction, modernisation, maintenance and protection of public roads, including motorways. Accordingly, under the Regulation of the Minister of T&ME of 22 December 1998 on approving the statute of GDDP – OJ of 31 December 1998, No. 164, item 1192) GDDP is financed from the State Budget.

5. The Minister also supervises over the Agency for Motorway Construction and Operation. Regulation of the Prime Minister of 13 May 1995 on approving the statute of the Agency for Motorway Construction and Operation (OJ of 24 May 1995 No. 52, item 283) states that the Agency shall prepare and co-ordinate construction and operation of motorways, and is a national legal person and a financially self-dependent agency.

6. The Minister of Regional Development and Construction heads the “regional development” sectors and is responsible for tasks within his competencies. Regulation of the Prime Minister of 20 June 2000 (OJ 21 June 2000, No. 50, item 589) lays down detailed scope competencies and responsibilities of the Minister of RD&C. Among them there are the following: co-operation with organisations associating territorial government units with regard to social and economic issues of national development, drafting national strategies for regional development, drafting and implementing programs related to regional development of the country.

7. Preparation of annual targets for privatisation schemes and programs (including privatisation of State Passenger Road Transport Companies - PKS) falls into scope of responsibilities of the Minister of State Treasury. The Minister of ST supervises over the Privatisation Agency.
8. So called social and professional environment of the road transport is organised in many groupings and associations, and in particular associations of international road transport operators of regional and national range (among them: the Association of International Road Transport Operators – ZMPD, member of the IRU and the Polish Association of International Passenger Road Transport Operators). There is also a kind of mother Union of Associations – National Council of Road Transport Operators. State Passenger Road Transport Companies - PKS are members of the Polish Commercial Chamber of Transport and Freight Forwarding. Also employers have their own regional and nation-wide groupings.

9. The law of 30 May 1989 on professional self-management in certain enterprises (OJ of 1989, No. 35, item 194 with later amendments) lays down principles for establishing and operating professional management structures associating persons-entrepreneurs involved in economic activity in the scope of:

1) trade, catering and general services,
2) transport,
3) other types of activity.

10. Entrepreneurs are free to associate within professional self-managerial organisations, e.g. in the form of transport associations.

11. Principal task of such associations is in particular maintaining and developing professional liaisons, promoting attitudes based on professional ethics and self-respect, as well as involving in cultural, educational and social initiatives to the benefit of members, establishing and maintaining internal funds and member benefit facilities, and representing member interests before central administration authorities.

12. Yes. Under among other regulations the law of 20 December 1996 on municipal management (OJ of 1997 No.9, item 43) units of local government may establish limited liability companies or joint stock companies, as well as may accede to such companies. The law lays down detailed conditions and requirements in this regard.

(1.2) Are there important recent regulatory developments that should be noted or important facts in the history of the industry that affect the way it is currently regulated? If so, please give a brief summary of the history of the [road freight/road passenger/taxi] industry.

13. There are the following external factors and events of the greatest importance which had implications for the system transformation in Poland, and indirectly for the transport sector development:

- the Europe Agreement (signed in 1991, in force since February 1994), which established association of the Republic of Poland with the European Communities and the Member Countries thereof; it established frames for gradual integration with the UE through open market access in many sectors and industries and other forms of activities;
the European Council Summit in Copenhagen (June 1993), which established principal political and economical criteria for accession of the associated countries,

the European Council Summit in Essen (December 1994), which set forth the pre-accession strategy substantiating actions required to achieve integration of the associated countries with the EU,

“White Paper of the European Commission on integration with the EU Common Market” (Cannes 1995), which identified priority adaptation tasks and a sequence of measures to adjust regulations of the EU candidate countries to the *acquis communautaire* in individual segments of internal market,

“Opinion (AVIS) of the European Commission on the Polish application for membership in the EU” and so called AGENDA 2000 (presented in July 1997 in the European Parliament), recognising Poland as a country of functioning market economy, capable to meet competition requirements in the mid-term; in the “Opinion” the European Commission stated that “Poland achieved significant progress in adopting *acquis communautaire in the transport sector*”, therefore no major problems are expected in this regard.

the European Council Summit in Luxembourg (December 1997), which decided to start negotiations with the associated states,

Brussels, 30-31 March 1998 – beginning of negotiations with the accession countries, including Poland,

draft decision of the EU Council on principles, priorities, intermediate targets and conditions included in the European Commission’s document “Accession Partnership”, adopted in March 1998.

14. In **internal relations**, the following elements of the adjustment process are of great importance:

submission of the official Polish application for membership in the EU (April 1994),

adoption of the Resolution No. 133/95 by the Council of Ministers, on implementation of recommendations of the “White Paper of the EC on integration with the common market of EU” (November 1995),

providing the European Commission with Replies to the Questionnaire – information required to draft an opinion on the Polish application for membership in the EU (July 1997),

adoption of the “National Strategy for Integration – NSI” by the Council of Ministers (January 1997),

establishment of Inter-ministerial Team of Experts for Preparing the Membership Negotiations (July 1997),

adoption of the “Schedule for implementing measures adjusting the Polish legislation to recommendations of the White Paper of the EC on integration with the Common Market of EU” by the Council of Ministers (August 1997),
• development of the “Report on status of preparations for membership of Poland in the EU as of the end of 1997” (March 1998),

• in 1998 development of the National Program for Preparations for Membership of Poland in the EU – NPPC (National Program for the Adoption of the Acquis) including annexes to the priorities in the short term (for 1998) and medium term (for 1999-2002) and follow-up with modifications and supplements.

15. Between November 1998 and March 1999 the European Commission in Brussels held several working meetings with representatives of the Polish state administration on multilateral and bilateral screening of the acquis communautaire with respect to “Transport Policy” area (including road transport). In 1998 representatives of MT&ME participated also in the screening exercise related to the “Free Movement of Goods” area, where among other things, adjustment of technical parameters of vehicles were analysed. The exercise was based on the so called “screening list” including a current transport EU acquis communautaire and equivalent Polish legal acts, as well as on the “Guide to the Transport acquis” prepared by DG-VII Transport of the European Commission.

16. Polish negotiating position in the scope of the transport policy was finally submitted to the European Commission in mid 1999.

17. All the above external and internal circumstances accelerated integration measures, which was reflected by higher intensity of legislative adjustment initiatives, implementation of system solutions, establishment of new institutions responsible for enforcing regulations and monitoring activities of transport entities.

18. There is a significant degree of cohesion between targets of the Polish and common transport policies. Basic underlying principles, in particular with relation to provisions of conditions for sustainable development of the transport sector with respecting safety and environmental standards, are compatible with Community requirements, which were reflected in current Polish legislation and drafts of proposed legal regulations.

19. A number of laws and executive acts, which entered into force between July 1997 and June 2000 (including amendments to existing regulations), proves that the Polish transport sector is well adapted to the needs of market economy and mechanisms as well as rules of fair competition and international co-operation.

20. The most prominent acts include: the Law of 2 August 1997 on conditions of performance of international road transport (OJ No.106, item 677 with later amendments), the Law of 29 August 1997 on conditions of performance of national road transport of passengers (OJ No. 141, item 942 with later amendments), the Law of 20 June 1997 on road traffic (OJ No. 98, item 602 with later amendments).

21. Currently proposed Law on the Road Transport Inspection is at the last stage of legislative procedure. Effectiveness is expected before end of 2000.

22. The new Law on road transport is expected in the beginning of 2002. It will uniformly harmonise and regulate conditions of the access to the road transport markets, passenger and goods, local and international, and access to the profession of the road transport operator. The law will introduce the licence to the road transport (replacing currently in use concession).

23. On 13 April 2000 Poland initialled Agreement on international occasional carriage of passengers by coach and bus - INTERBUS, prepared by the European Commission and negotiated with 13 associated countries. The Agreement shall enter into force during the pre-accession period and replace these parts of the bilateral agreements between Poland and European countries which deal with
international occasional road transport of passengers. A next step on the way to harmonise conditions to perform this type of passenger services will be taken.

(1.3) What are the primary regulatory requirements that must be satisfied by a firm, which wishes to provide [road freight/road passenger/taxi] services (whether local, regional, inter-state or international)?

24. Polish legislation regulates conditions of the access to the market and to the profession of road transport operators separately, in terms of national and international road transport.

25. Conditions to perform international road transport of passengers and goods are regulated in the Law of 2 August 1997 on conditions of performance of international road transport (OJ No.106, item 677 with later amendments), and in the relevant executive acts thereunder, including in particular:

- the Regulation of the Minister of T&ME of 28 November 1997 laying down the documents required for granting a licence for performing international road transport and content as well as form of such a licence (OJ 1997, No 148, item 991 with later amendments),

- the Regulation of the Minister of T&ME of 28 November 1997 on additional conditions for granting of authorisations for a national enterprise to perform international regular carriage of passengers by coach and bus, shuttle and occasional services (OJ 1997, No 148, item 990 with later amendments),

- the Regulation of the Minister of T&ME of 31 March 1998 on charges for journeys using the roads of national character for international road transport and on the bodies entitled for charging (OJ 1998, No 45, item 286 with later amendments).

26. In national road transport, regulatory framework was provided only for passenger transport (including taxi). Relevant regulations may be found in the Law of 29 August 1997 on conditions of performance of national road transport of passenger (OJ 1997, No. 141, item 942 with later amendments) and respective executive acts thereunder, including in particular:

- the Regulation of the Minister of T&ME of 5 March 1998 on documents required for granting a permit to perform national passenger road transport for hire and reward by motor vehicles other than the taxi cabs, and content as well as form of such a permit (OJ 1998, No 34, item 193 with later amendments),

- the Regulation of the Minister of T&ME of 5 March 1998 on documents required for granting a permit to perform national passenger road transport for hire or reward by taxi cabs, and content as well as form of such a permit (OJ 1998, No 34, item 194 with later amendments),

- the Regulation of the Minister of T&ME of 23 May 2000 concerning training and examining of persons applying for the permission to perform national road transport of passengers for hire or reward (OJ 2000, No 45, item 529).

27. Conditions of the access to the national markets of the road transport of goods are regulated by many different provisions scattered through the Polish legislation, for example covered by the Transport Law of 1984 (OJ 2000, No 50, item 601), the Law of 1999 on the economic activity (OJ 1999, No 101, item 1178), etc.
Is a licence necessary to provide such services?

28. Polish entrepreneurs, who wish to perform international road transport for hire and reward (of passengers and goods) are required to obtain concession (basically equal to the Community licence), which is granted by the Minister of Transport and Maritime Economy upon meeting quality criteria set forth in the Law (current status conforms to the Council Directive 96/26 on access to the profession of road transport operator).

29. The concession is not required in case of international combined transport.

30. The concession does not apply also in case of international road transport for own account (both passengers and goods).

31. In national road transport no concessioning is applicable. Economic activity consisting in performing national road transport of passengers for hire and reward requires relevant permit. Such permit is granted, refused, withdrawn, exchanged or expired by means of relevant administrative decision.

What are the most important license conditions (e.g. financial standing, criminal history, insurance requirements and so on)?

32. The concession to perform international road transport (of passengers and goods) for hire and reward is granted to any entrepreneur, who meets the following quality criteria:

1) at least one member of the management board of a legal person, and otherwise – one of persons involved in economic activity – has at least three years of experience in performing national road transport or one year of experience in case of international transport,

2) members of the management board of a legal person, and otherwise – persons involved in economic activity, have no criminal record of offences against taxation, safety in inland transport, property or documents,

3) provides adequate security in the form of financial or tangible assets in the amount equal to at least EURO 3000 or EURO 150 per ton of maximum allowable payload or per bus seat or in the form of other collateral equal in value to the above,

4) is entitled to hold a vehicle, technical characteristics of which conform to requirements laid down in the Law on road traffic,

5) international road transport may be performed by driver or drivers meeting the conditions set forth in point 1), holding a certificate of professional qualifications as defined in the Law on road traffic with no criminal record of offences against taxation, safety in inland transport, property or documents.

33. Economic activity consisting in performing national road transport of passengers for hire and reward requires relevant permit. The permit is granted if:

1) entrepreneur is entitled to hold a vehicle, technical characteristics of which conform to requirements laid down in the Law on road traffic,

2) at least one of the undertaking’s owners and in case of legal person - a member of the management board has certified adequate professional qualifications, which means:
− has completed higher education in economical, technical or legal field, or
− holds a certificate confirming passing an exam in the scope of performing national road transport of passengers for hire and reward, or
− holds executive post in transport enterprise, or is a member of the management board in a company dealing with transport activity, for at least one year, or
− has documented at least three years of experience in performing road transport of passengers for hire and reward,

3) entrepreneur provides a financial or material guarantee equal in value to at least EUR3000 per vehicle or EURO 150 per each seat, or provides any other acceptable collateral for the period of holding the permit.

34. The permit for performing national carriages by taxi is granted when the entrepreneur personally performing such transport for hire and reward and employed by him drivers meet the conditions laid down in the relevant regulations (including regulations of the Law on road traffic).

35. Additional requirements regarding taxi operators are provided for in the provision, which refers to the obligatory withdrawal of the permit whenever the entrepreneur:

1) ceased to fulfil the requirements to obtain such permit, or
2) arbitrarily alters readings of measuring and control devices fitted in taxi, or
3) goes beyond his rights, or does not meet his obligations set forth in the permit, or
4) violates regulations on counteracting unfair competition.

36. The permit may be withdrawn, if the entrepreneur:

1) fails to perform carriages for a period longer than 3 months due to his own reasons,
2) violates provisions of related laws or transport regulations, including disciplinary provisions related to carriages of passengers and luggage by taxi, or
3) violates provisions on regulated prices for transport services, or
4) violates provisions on working hours of drivers, or
5) fails to remedy within specified period of time, faults identified during relevant control.

37. Yes. The Minister of Transport and Maritime Economy is the relevant authority to grant concessions. The authority has powers to refuse, change and withdraw concessions. Such actions are taken by means provided for in the Code of Administrative Conduct. Concessions take form of administrative decisions.
38. Under provisions of said Law on international road transport, the Minister of Transport and Maritime Economy shall deny granting the concession in case it is not possible to provide for sufficient quantity of foreign permits (to perform bilateral transport services, in transit, to and from third countries).

39. The term foreign permit means a document received under relevant bilateral agreement on international road transport from competent foreign authority or international organisation, entitling to perform international road transport, for single or multiple use on the territory of states specified in such permit or in transit through such territory. Issues related to mutual exchange of foreign permits are discussed on the Joint Committee meetings, based on the bilateral agreements on international road transport, signed by Poland and other European states.

40. The Minister of T&ME, in consultation with nation-wide organisations associating international road transport operators, may establish a quota of concessions or concession promises for any given calendar year.

41. Such measures can be economically justified since in order to provide for fair, undisturbed operation of international road transport it is necessary to guarantee a number of permits for any concession holder. Full liberalisation of this market against limited number of foreign permits for bilateral and transit road transport might break down the Polish transport market.

Is there a time limit within which a license must be granted or denied?

42. Yes. 14 days according to provisions of the Code of Administrative Conduct. However, when the case is very difficult and complex, administrative proceeding may take longer (not longer than 60 days) upon relevant notification of the applicant.

Do operators already in the market have any official role to play in the decision making process that leads to new entry?

43. No. Access to market is fully liberalised.

44. Nevertheless, at the current stage, it is not possible for firms, which apply for concessions to perform international transport, to grow in proportion to the rate international trade develops, due to limited number of concessions. The Minister of T&ME requests nation-wide Polish organisations associating international road transport operators for an opinion on the number of available concessions or concession promises for a given calendar year.

Are separate licenses required for the provision of different services? Which services?

45. Concessions are granted to perform international road transport to one or more countries, by specified motor vehicle.

46. Concessions for international road transport fall into two categories:
   - passenger concession (for passenger road transport),
   - goods concession (for road transport of goods).
Are there limitations on the ability of one firm to hold more than one licence?

47. No. A company has to meet requirements set forth in the Law and executive acts, only.

Is licensing restricted to individuals?

48. No. To the application for concession to perform international road transport should be attached:

- in case of natural persons and civil companies – a document proving the registration of economic activity;

- in case of legal persons (limited liability companies, joint stock companies, state owned enterprises) - a document of entry into the commercial register and the deed of establishment (notary deed, statute),

- and then - the person has to meet the requirements set forth in the law and executive acts.

Are licenses transferable?

49. No. The concession may not be transferred to third persons.

50. Nevertheless, the Minister of T&ME acting upon application of the entrepreneur, may transfer rights flowing from such concession in case:

- of death of natural person – holder of the concession – replaced with heir, which shall include natural person as a partner in all forms of civil companies (governed by the Civil Code),

- of merger, split or transformation, according to relevant regulations, of the company holding vehicles covered by the concessions for international road transport,

- of take over by other entrepreneur, whole or part of the activity in the scope of international road transport.

Can licenses be transferred on a geographic basis?

No.

Are there constraints on the ownership, organisational form or operation of the firm which holds the license?

No.

Is the validity of license limited in time?

No, unless requested by the applicant.
In the case of passenger services is a regulatory distinction made between regular or scheduled and occasional services (such as chartered services or one-off excursions)? What are the different regulatory requirements in each case?

51. According to said Law on international road transport, performing **regular international bus transport, shuttle or occasional services** on the territory of the Republic of Poland requires – beside the concession – an **additional permit** of the Minister of T&ME.

52. Occasional services are exempt from this requirement when:

1) the same group of passenger is carried in the same vehicle throughout the travelled distance in order to reach a starting point, or

2) passengers are carried one way only in order to reach a destination point.

53. The permit to perform regular bus services may be granted for up to 5 years, and in case of shuttle and occasional services – not longer than for 1 year.

54. The permit must be used only by the recipient.

55. In international road **transport of passengers** no quotas (foreign permits) are applicable regarding access to the market, i.e. there is no ceiling for foreign permits (save for road transport to and from: Austria, Croatia, Czech Republic, Latvia, Slovakia, Slovenia, Russia, Italy where quotas are established for number of vehicles entering their territories empty – with no passengers).

56. Regulation of the Minister of T&ME of 28 November 1997 on **additional conditions** for granting of authorisations for a national enterprise to perform **international** regular carriage of passengers by coach and bus, shuttle and occasional services (OJ 1997, No 148, item 990 with later amendments), stipulates that national entrepreneurs applying for permits to perform **regular bus services** should:

1) have at least three year of documented experience in the scope of performing international road transport of passengers by road or five year experience in the field of performing national road transport of passenger by road,

2) hold adequate number of buses covered by concessions, which enable them to operate a regular line and at least one bus in reserve per each 10 buses operated on the line,

3) evidence that proposed activity in the scope of regular international services by bus shall:

   a) pose no direct threat to existence of previously approved regular bus services,

   b) pose no real competition for respective railway connection.

57. The regulation introduces a distinction between requirements for operators applying for additional permit for performing regular international bus services and for international shuttle or occasional services.

58. In the first case, relevant application should be supported by:

1) a copy of concession to perform international road transport,

2) documents required under the regulation,
3) detailed description of route indicating stops for picking up and discharging passengers and cross border points,
4) a map with indication of proposed routes and stops,
5) information on length of the line in km, and distance between individual stops,
6) timetable agreed with foreign operator proposed to perform regular services on the line,
7) a copy of contracted on common regular services signed by operators,
8) schedule for driving hours and rests,
9) tariffs and prices,
10) copies of registration cards of buses covered by the concessions, and in case the applicant is not owner thereof – additionally document entitling to use such vehicles.

59. Application for granting permit to perform international **shuttle or occasional** services should be supported by:
   1) proposed route of carriages indicating cross border points,
   2) dates of carriages,
   3) schedule of driving hours and rests,
   4) copies of registration cards of buses covered by the concessions, and in case the applicant is not owner thereof – additionally document entitling to use such vehicles.

60. The Polish resident applying for the **permit to perform national regular bus transport services** is required to provide the granting authority with:
   1) proposed agreed timetable being in line with provisions of transport regulations,
   2) principles of using bus stops and stations agreed with owners thereof.

   *How is the co-ordination between different routes and time schedules achieved at the local level? Is there any co-ordination at the local level by different companies operating on different routes and by different forms operating different means of transportation?*

61. The **Transport Law** (OJ of 1995 No. 119, item 575 with later amendments) stipulates that operators of regular international road transport of passengers are required to agree proposed timetables with relevant local customs authority, and in particular - time and place of crossing national border by buses and waiting times on cross border points.

62. Both in case of national and international services operators are required to publish – by generally acceptable means – scope of activity, and in particular addresses of dispatch points and procedure to conclude contracts for carriage.
63. Operators of regular public transport are required in particular to publish timetable of offered services.

64. Co-ordination of timetables of operators involved in national road transport of passengers for hire and reward in the form of regular public transport is done by:

1) board of local community – in case of in-community routes,
2) board of county – in case of cross community routes within one county,
3) board of the voivodeship – in case of routes crossing two or more counties,
4) board of the voivodeship, on which territory starts the route further crossing two or more voivodeship.

65. The above authorities (boards) are obliged to organise co-ordination of timetables on their territories and to agree on timetables when proposed route goes beyond their territories.

66. Operators are obliged to agree timetables with relevant authorities. Costs related to co-ordination of timetables is borne by operators.

67. The above issues are also regulated in the Regulation of the Minister of Transport and Maritime Economy of 15 December 1998 on contents, procedure and deadlines to publish timetables, procedure to agree and co-ordinate such timetables and conditions to bear related cost (OJ of 1998 No. 159, item 1054).

(1.4) What are primary regulatory restrictions on the provision of new services or the expansion of existing services (whether local, regional, inter-state or international)?

There are no such restrictions.

Is a licence required to provide new services or expand existing services?

68. Polish entrepreneurs wishing to perform international road transport (of passengers or goods) for hire and reward have to obtain relevant concession (which is basically equal to Community license). The concession is granted by the Minister of Transport and Maritime Economy provided that legal provisions on quality criteria are met.

Are there controls on the quantity of services that can be provided or the routes that they can be serviced?

69. Entrepreneurs performing international road transport for hire and reward are required to follow the conditions, under which the concession was granted. Concession may be granted for:

1) road transport to one or more countries,
2) carriage in one or more specified motor vehicles,
3) all or selected types of carriages.

70. In case of persisting violations of respective regulations, the concession may be withdrawn or the permit for international road transport of goods may be denied.
71. The law on performing international road transport calls for obligatory and optional withdrawal of concessions.

72. The concession must be withdrawn when the entrepreneur fails to meet requirements thereunder (for example the operator used the vehicle other than shown in the concession or performed the carriage to country other than shown in the concession).

73. The concession may be withdrawn, when the holder fails to provide relevant information and documents required by the granting authority within specified deadline. The documents should evidence that the entrepreneur acts in conformity with conditions to perform economic activity in the field of international road transport.

74. The Minister of T&ME may request the concession holder to present, within specified period of time, information and documents evidencing that the entrepreneur acts in conformity with conditions to perform international road transport, laid down in relevant law.

75. Granting of permit to perform national regular passenger services on specified route crossing neighbouring counties or voivodeship, requires approval of the competent voivodeship authorities relevant to geographic scope of such route. The granting authority may request the permit holder to present, within specified period of time, information, data and documents evidencing that the entrepreneur acts in conformity with conditions to perform road transport of passengers for hire or reward, laid down in relevant law.

76. The Minister of Transport and Maritime Economy is the competent authority to grant concessions. The granting authority is entitled to deny, change and withdraw the concession. Actions in this respect are governed by procedures laid down in the Code of Administrative Conduct. Concessions take form of administrative decisions.

77. Under provisions of said Law on international road transport, the Minister of T&ME shall deny the concession in case it is not possible to provide for sufficient quantity of foreign permits (to perform bilateral transport services, in transit, and to and from third countries).

78. The term foreign permit means a document received under relevant bilateral agreement on international road transport from competent foreign authority or international organisation, entitling to perform international road transport, for single or multiple use on the territory of states specified in such permit or in transit through such territory. Issues related to mutual exchange of foreign permits are discussed on the Joint Committee meetings, based on the bilateral agreements on international road transport, signed by Poland and other European states.

79. The Minister of T&ME, in consultation with nation-wide organisations associating international road transport operators, may establish a quota of concessions or concession promises for any given calendar year.

80. Such measures can be economically justified since in order to provide for fair, undisturbed operation of international road transport it is necessary to guarantee a number of permits for any concession holder. Full liberalisation of this market against limited number of foreign permits for bilateral and transit road transport might break down the Polish transport market.
81. In case a company has environment friendly vehicles, the entrepreneur may at any time submit relevant documents, and within next 30 days he will be granted a concession. Such concession is valid in all countries save for Austria and Slovenia.

82. Entrepreneurs shall be exempted from a requirement to hold foreign permit to perform international combined transport if relevant international agreements provide for such exemption on mutual basis.

**Is there a time limit within which a license must be granted or denied?**

83. Yes. 14 days according to provisions of the Code of Administrative Conduct. However, when the case is very difficult and complex, administrative proceeding may take longer (not longer that 60 days) upon relevant notification of the applicant.

**What other provisions do licenses control (such as capacity, routing, etc.)?**

84. Entrepreneurs performing international road transport are obliged to follow the conditions, under which the concession has been granted. Concession may be granted for:

1) road transport to one or more countries,
2) carriage in one or more specified motor vehicles,
3) all or selected types of carriages.

85. In case of persisting violations of respective regulations, the concession may be withdrawn or the permit for international road transport of goods may be denied.

86. The Law on international road transport provides that the Minister of T&ME may request the permit holder to present, within specified period of time, information and documents evidencing that the entrepreneur acts in conformity with conditions to perform international road transport, laid down in relevant Law.

87. In case of national road transport of passengers, the granting authority may obliged the permit holder to present, within specified period of time, information, data and documents evidencing that the entrepreneur acts in conformity with conditions to perform paid transport of passengers, laid down in relevant Law and the permit.

**What flexibility does a license holder have to change the services that he/she provides? Are there any constraints on withdrawing from the provision of a service?**

88. The Law on conditions to perform international road transport provides for circumstances when the concession expires. It may happen under the following circumstances:

1) concession expires after the concession period stipulated therein.

2) Generally, concessions are granted for indefinite period of time. However if requested by the applicant, the concession may set forth the concession period.
3) concession expires in case the undertaking belonging to the concession holder is liquidated and no circumstances arise to justify the transfer of rights under the concession and such transfer is not authorised by the decision of the Minister of T&ME.

4) concession expires in case the concession holder relinquish all his rights thereunder.

89. Additionally in circumstances of: change of vehicles, change of the firm’s address, change of vehicle registration number, change of territorial scope of the concession, change of vehicle DMC with the replacement of the vehicle, application for a concession duplicate or extension of transport capacity (more vehicles) – the cases where additional concession should be applied for – submission of relevant documents is required.

In the case of taxi services, is a regulatory distinction made between taxis that can be hailed on the street, taxis hired at ranks and taxis ordered by phone?

No.

Is there a national regulatory mechanism in place?

90. Yes. The Law of 1997 on conditions of performance of national road transport of passengers lays down the conditions to be followed in performing taxi services, and the Regulations of the Minister of T&ME of 5 March 1998 on documents required for granting a permit to perform national passenger road transport for hire or reward by taxi cabs, and content as well as form of such a permit (OJ 1998, No 34, item 194 with later amendments), includes more detailed provisions in this regard.

Are there limitations on the number or identity of taxis that can serve certain locations (such as a limitation on the number/identity of taxis that are allowed to pick up at a major airport)?

91. Relevant county authorities and Municipal Council of Warsaw may introduce a requirement to obtain a permit for carriage of passengers by taxi, for hire and reward. Such permits are granted for vehicle and area of:

1) a local community,

2) neighbouring communities, after relevant agreement is reached between all involved communities,

3) a City of Warsaw – union of communities.

92. Heads of respective local authorities (depending on the area stipulated in the permit) are competent to issue, deny, withdraw, change and terminate permits.

93. It is allowed to perform carriage originating in the authorised area and going beyond, however with no right to render passenger services outside the authorised area, save for return leg.

94. Relevant community councils and the Municipal Council of Warsaw may introduce a limit of new permits for taxi services to be issued during particular calendar year, upon consulting organisations associating local taxi drivers and organisations, statutory obligation of which is to protect consumer rights.
Are there quality standards (colour, size, age, comfort, etc.) to which a taxi has to comply?

95. The Law on road traffic of 20 June 1997 (OJ of 1997 No. 160, item 1086 with later amendments) stipulates that a taxi is a motor vehicle fitted with adequate equipment and adequately marked, designed to perform the carriage, upon a charge paid on the basis of readings of a taximeter:

1) not more than 9 passengers (including a driver) and hand luggage thereof (passenger taxi),
2) loads of the maximum allowable weigh of 2.5 t (luggage taxi).

96. The Law regulates also conditions of the access of the vehicles to the traffic on public roads and in residential areas and describes rules and principles to control road traffic.

97. An association of taxi drivers of given city, local community or county may establish the colour of taxi cabs to be used by its members; it also supervises over quality of offered services.

Does taxi regulation differ municipality from municipality?

98. A national regulatory framework is in place, however individual municipalities and communities are free to adopt different solutions in the field of organisation.

Are there limitations on the hours of operation of a taxi or are these limitations placed on each driver?

There are no such limitations.

How do you guarantee holiday or night services?

Services are rendered 24 hours a day in all year around. Relevant tariffs are in place.

What are the primary regulatory controls on prices and/or quality of services? Are there limits on the prices than an operator can charge? Do these limits set a price ceiling or a price floor, or both? What constrains are placed on the flexibility of the service provider to adjust prices or services? Is there provisions for oversight, registration, rate-filling or approval of the prices charged? What is the objective of these regulations? Do professional bodies or associations have a role in setting the level of prices?

99. Under the Article 11 of the Law of 15 November 1984 – Transport Law (OJ of 1995 No. 119, item 575 with later amendments) prices charged for national road transport of passengers and goods are set by providers themselves:

– since 1 November 1989 – in case of national goods transport by road,
– since 1 January 1999 – in case of national passenger inter-city bus services.

100. Under Article 18 of the Law of 26 February 1982 on prices (OJ of 1988 No. 27, item 195 with later amendments) the following authorities have facultative right to regulate prices for transport services:
– community council – for services offered in the scope of communal public transport and taxi services. In the Capital City of Warsaw this right belongs to the Municipal Council of Warsaw. The Municipal Council stipulates also the price zones (tariff zones) applicable to carriage of persons and luggage by taxis.

– county council – for services of county public transport.

Regulated prices are in the form of a ceiling (maximal level).

101. The law of 1984 – Transport Law stipulates that providers are required to publish, by generally acceptable means, tariffs and prices they set or use. Providers shall provide open access to their own transport regulations.

In the case of passenger services, competition is sometimes restricted in the provision of certain services, granting the incumbent a local monopoly. Is competition restricted for certain services? In these cases how is the service provider chosen?


Are some services subsidised? How is the level of subsidy determined?

103. The Law of 1997 on conditions of performance of the national road transport of passengers by road stipulates that operators of public transport services take account of passenger rights to free or discounted rides when the authority which grants such rights, established contractual rights to compensate for related costs (lost revenues).

104. Providers of national bus services are subsidised on account of obligation to respects rights to discounted and free rides.

105. Providers of passenger bus services, under Article 12b of the Law of 29 August 1997 on conditions of performance of the national road transport of passengers (OJ No. 141, item 942 with later amendments) have to respect rights to discounted or free rides authorised by:

– competent authority,

– by means of the Law.

106. First of the above categories of rights is used by operators on the basis of conditionally, i.e. only when the authority which grants such rights signs a contract with operator to compensate for related cost (Article 12b.1 of the Law).

107. Statutory rights to free and discounted rides (established by means of a law) and principles to compensate for related cost are set forth in the Law of 20 June 1992 on rights to free and discounted rides in means of public transport (OJ No. 54, item 254 with later amendments). Based on the Law providers of national passenger bus services are compensated on this account in the form of a subsidy. Such subsidies are transferred to providers of national passenger bus services upon relevant contracts concluded between
them and voivodeship self-government authorities. The level of subsidies is established on the basis of readings of cash registers and is related to actual difference between full ticket price and revenues on sale of tickets (net of Value Added Tax).

(1.6) What are the primary controls on international trade in road freight/passenger services? Are there controls on foreign ownership of road freight/passenger companies? Are there controls on foreign companies providing services to or from your country?

108. Are there controls on foreign companies providing services within your country (i.e. cabotage)? Conditions to perform cabotage services in road goods transport in Poland are regulated in the Law of 2 August 1997 on conditions of performance of international road transport (OJ No.106, item 677 with later amendments). In Article 22, the Law stipulates that performing cabotage services by foreign operator requires separate permit of the Minister of Transport and Maritime Economy. Foreign provider applying for such permit has to support his/her application with recommendation from at least two Polish nation-wide organisations associating international road operators.

109. Currently, bilateral agreements on international road transport prohibit any form of cabotage services on territories of the contracting parties.

Are these controls on the quantity, routing or prices of international services? How are these controls determined?

110. The Law on road traffic (OJ of 1997 No. 98, item 602 with later amendments) and executive acts thereunder issued by the Minister of Internal Affairs and Administration and Minister of T&ME establish frame regulations for goals of road traffic controls (including vehicles and drivers involved in national and international road transport), principles to organise and perform such controls, procedure to follow and control authorities.

111. According to these regulations main authority to monitor safety, manage and control traffic on the Polish roads is the Police. Powers of the Police include scope of controls (in terms of who and what) which conforms to the scope of the Council Regulation EEC 4060/89 on abolishing controls on borders between the Member States in the scope of road transport and inland shipping.

112. Issues related to controls of entrepreneurs and drivers of the Polish and foreign vehicles performing international road transport of goods and passengers fall in the scope of the Law on conditions to perform international road transport (OJ of 1997 No. 106, item 677).

113. It details obligations of entrepreneurs related to providing the driver with relevant documents (including: a concession to perform international road transport, foreign permit for goods services, a permit to carry passengers in the scope of international road transport, route form – in case of occasional, shuttle carriage or carriage of passengers for own account, evidence of payment required in international road transport, a vehicle permit to cross territory, full or empty, when weigh, axle loads or dimensions exceed maximum allowable limits set by the Law).

114. Police, customs authority, Border Guards and road administration are all authorised to check drivers of vehicles registered locally or abroad, for the documents required in international road transport.
115. In 1999 the following regulations were adopted, which facilitate further improvement of road traffic safety:

a) Statement of the Polish Government of 29 January 1999 on publication of standard text of European agreement on international transport of dangerous goods by road (ADR) done in Geneva on 30 September 1957, including amended texts of attachments A and B to the Agreement (OJ No. 30, item 287),

b) Regulation of the Minister of Internal Affairs and Administration of 25 May 1999 on road traffic controls (OJ No. 53, item 563),

c) Regulation of the Minister of T&ME of 15 June 1999 on road transport of dangerous materials (OJ No. 57, item 608),

d) Regulation of the Minister of T&ME of 15 June 1999 on training courses developing knowledge of drivers of vehicles carrying dangerous materials (OJ No. 57, item 609).

116. Currently in Poland, we are still missing an agency specialised in road transport controls. The Ministry of T&ME drafted the Law on Road Transport Inspection (expected to become effective in the second half of 2000). The main task of the draft Law is to establish the Road Transport Inspection and to lay down principles and conditions for operating and conducting control of the road transport. The Minister of T&ME shall supervise over controlling tasks of the Inspection.

117. Controls shall include in particular:

− possession of the necessary authorisation to perform the road transport for hire and reward (concession or permit, including cabotage services, and other documents related to services performed,

− statutory documents required by the Law on road traffic,

− technical condition of motor vehicles,

− actual weigh, axle loads and dimensions of vehicles to meet allowable limits set forth in relevant regulations,

− driving hours, obligatory periods of brakes and rest to meet the standards set forth in respective regulations,

− performance under principles for transport of dangerous goods by road (ADR Agreement),

− performance under principles of carrying perishable foodstuff (ATP Agreement),

− performance under detailed principles and conditions of carrying livestock,

− reliability of services offered in regular bus transport, shuttle and occasional road transport.

118. During controls, inspectors shall be entitled to:

1) enter vehicles, premises or facilities involved in economic activity during times and days when such activity is or should be performed,
impose financial penalties or road charges,
3) use means of direct enforcement,
4) use firearms.

119. The Inspection shall co-operate with Border Guards, customs authority, Customs Inspectorate, the Police and road administrator.

*Is it necessary to harmonise certain international regulatory controls in order to facilitate international trade in transport services, or is it sufficient for each jurisdiction to enforce its own laws on its own territory? If harmonisation is necessary, which features should be harmonised? (vehicle weight, dimension and loading rules? driving time rules? emission standards?) Is it necessary to harmonise vehicle registration charges or taxes?*

120. The European Union in parallel to harmonising legal frameworks of performance of international road transport on the basis of quality criteria only, simplifying administrative procedures and formalities as well as liberalising access to the market, extends scope and procedures of control on entrepreneurs and drivers involved in road transport of passengers and goods.

121. A number of legal acts currently regulate control and inspection procedures – both with regard to road traffic, vehicles and entrepreneurs performing national or international road transport of passengers and goods.

122. Authorities relevant to controls are mainly:

− border guards and customs authorities,
− the Police.

123. In Poland the Law on road traffic gives the detailed competencies and specifies scope of control performed by the Police. Additionally, executive acts regulate sanctions for violation of regulations regarding principles and conditions of road traffic, carriages of specific types of goods and passengers, use of specified types of means of transport. Offences in this regard result in administrative penalties, financial penalties as well as increased charges.

124. In parallel to growing volume of vehicles on roads and road transport operators in Poland it is necessary to increase scope and frequency of control carried on roads and in premises of road transport operators as a precondition to increase safety and conditions of fair competition in the transport sector.

125. It would be possible to meet these objectives only when specialised body, acting in co-operation with other control authorities, is empowered to implement such wide and complicated scope of controls in road transport – both national and international – in efficient and effective manner.

126. Taking into account the above considerations, as well as respective *acquis communautaire*, the Government of the Republic of Poland intends to introduce the Law on *Road Transport Inspection* (ITD) in December 2000, and establish specialised control authority thereunder, able to meet extensive control requirements.

127. The draft Law and executive acts would facilitate existing control mechanisms and instruments, they would also strengthen institutional capability of Poland to perform efficient controls of transport documents and means of transport used in road services, on cross border points and internally.
128. The draft Law will implement into the Polish legislation not only principal Council Regulations EEC No. 4060/89 (on abolishing controls on internal borders of the Member States in the scope of road transport and inland shipping) and 3912/92 (on controls performed within the Community in the scope of road transport and inland shipping with respect to transport means registered or put into traffic in third countries), but also provisions and solutions proposed in other legal EC acts, i.e.:

- Council Regulation 3820/85 on harmonisation of certain social legislation relating to road transport,
- Council Directive 88/559 on standard control procedures with respect to Regulations 3820/85 and 3821/85 (on recording equipment in road transport),
- Council Regulation 684/92 (on common principles for international transport of passenger by bus),
- and other directives and regulations regarding controls of conditions and principles of performing road transport and technical parameters of vehicles used in road transport.

129. Polish side – in line with its pre-accession commitments – carry out also adjustment measures in the field of legislation on charges and taxes, in that - for the use of certain sections of the road infrastructure and taxes on transport means (heavy goods vehicles, buses and others).

**Market Outcomes**

(1.7) What is the market structure of the [road freight/road passenger/taxis] sector? How many firms are active? What are their market shares and the various relevant markets?

130. Legislation and practice with regard to provision of road services in Poland reflects actual split into two sub-sectors: international road transport and national road transport.

**International road transport**

*a) of goods*

- As of 20 September 2000, about 24.4 thousand goods transport concessions were granted.
- The concessions are held by 7.4 thousand of different firms.
- Over 42% of firms have only one vehicle, 41% - between 1 and 4 vehicles; only 9 firms have between 51 and 100 vehicles, while the biggest two have more than 100 vehicles.
- Vehicle fleet is relatively modern and conforms with European technical requirements (established by UN/ECE and EU); from the total of over 23 thousand of heavy goods vehicles used in international transport some 50% is friendly to the environment.
- There is a trend of growing share of foreign capitals in the Polish transport market (many independent foreign firms are established; rep-offices flourish throughout Poland; foreign companies establish joint ventures with the Polish counterparts; foreign companies serve the
Polish customers with their own fleet). In 1998 in total about 90 firms were established with foreign capital involvement.

b) of passengers

- As of 20 September 2000, about 5.0 thousand passenger transport concessions were granted.
- The concessions are held by 2.3 thousand of firms.
- Close to 88% of the firms own between 1 and 4 vehicles; only 8% have between 5 and 9 vehicles, while the two biggest firms have more than 50 vehicles.

National road transport

a) of goods

131. In general, there is no yet broad, efficient and legally enforceable system to monitor national road transport market. Fragmented analysis and expertise give the rough estimations and information on the status and tendencies among enterprises in that sector of road transport. The most valuable source of data is the Main Statistical Office in Warsaw (GUS). GUS carries on surveys and collects data on obligatory basis.

- It is estimated that 92% of transport operators for hire and reward are private firms. Among those, some 74% have between 1 and 4 vehicles and employ the staff of 5. Only 26% employ more than 5 persons.

- Analysis of statistical data on heavy goods vehicles (more than 3.5 tons) shows that 75% of these were manufactures before 1997. Majority of old vehicles is used in national transport by private firms and users.

b) of passengers

132. It is estimated that of 81.5 thousand of buses and coaches registered in Poland in 1997, 46 thousand was used in national and international transport of passengers for hire and reward. Total employment level is estimated at 100-200 thousand.

133. Other vehicles (23 thousand) were engaged in road transport for own account and municipal public transport (12.5 thousand).

- The market of national passenger services is dominated by PKS companies. About 170 PKS companies currently active in Poland employ over 50 thousand people and own over 17 thousand of vehicles.

- Significant part of PKS companies is involved in regular services on national inter-city routes (share of private companies is only 13.5%).
It is estimated that about 65% of national occasional services (local and regional tourism, excursions, transport of employees, pupils etc.) is done by PKS companies, remaining 35% by mostly private firms.

Market structure of goods and passenger transport by road in 1998

I. Goods services.

Goods transport by all means of transport - in 1998, million tons

<table>
<thead>
<tr>
<th>Total:</th>
<th>1359.23</th>
<th>100%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Railway transport</td>
<td>206.4</td>
<td>15.2</td>
</tr>
<tr>
<td>Road transport</td>
<td>1077.3</td>
<td>79.2</td>
</tr>
<tr>
<td>of which: for hire and reward</td>
<td>372.9</td>
<td>27.4</td>
</tr>
<tr>
<td>Pipelines</td>
<td>40.7</td>
<td>3.0</td>
</tr>
<tr>
<td>Sea transport</td>
<td>9.4</td>
<td>0.7</td>
</tr>
<tr>
<td>Inland shipping</td>
<td>0.03</td>
<td>0.0</td>
</tr>
<tr>
<td>Air transport</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Goods transport by road (million tons)

<table>
<thead>
<tr>
<th>Total:</th>
<th>1077.3</th>
<th>100%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Transport for hire and reward</td>
<td>372.9</td>
<td>34.6</td>
</tr>
<tr>
<td>public sector</td>
<td>24.9</td>
<td>2.3</td>
</tr>
<tr>
<td>private sector</td>
<td>348.0</td>
<td>32.3</td>
</tr>
<tr>
<td>of which: firms with over 5 persons</td>
<td>97.4</td>
<td>9.0</td>
</tr>
<tr>
<td>2. Transport for own account</td>
<td>704.4</td>
<td>65.4</td>
</tr>
</tbody>
</table>

Goods transport by road for hire and reward by firms with over 5 staff (million tons)

<table>
<thead>
<tr>
<th>Total:</th>
<th>97.4</th>
<th>100%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goods vehicles and tractors/semi-trailers</td>
<td>95.7</td>
<td>98.3</td>
</tr>
<tr>
<td>Trailers</td>
<td>1.7</td>
<td>1.7</td>
</tr>
</tbody>
</table>

Vehicles owned by firms involved in road transport for hire and reward (over 5 staff) – goods vehicles and tractors – as of 31 December 1998

<table>
<thead>
<tr>
<th>Number of firms</th>
<th>2037</th>
<th>100%</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 and less</td>
<td>592</td>
<td>29.1</td>
</tr>
</tbody>
</table>
2. Passenger services.

Passenger transport by all means of transport - million passengers

<table>
<thead>
<tr>
<th>Total:</th>
<th>1444.0</th>
<th>100%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Railway transport</td>
<td>401.5</td>
<td>27.8</td>
</tr>
<tr>
<td>1038.3</td>
<td>71.9</td>
<td></td>
</tr>
<tr>
<td>Road transport</td>
<td>0.6</td>
<td>0.0</td>
</tr>
<tr>
<td>Sea transport</td>
<td>1.0</td>
<td>0.1</td>
</tr>
<tr>
<td>Inland shipping</td>
<td>2.6</td>
<td>0.2</td>
</tr>
</tbody>
</table>

Passenger transport by road (million passengers)

<table>
<thead>
<tr>
<th>Total:</th>
<th>1038.3</th>
<th>100%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular services</td>
<td>910.5</td>
<td>76.9</td>
</tr>
<tr>
<td>127.8</td>
<td>23.1</td>
<td></td>
</tr>
<tr>
<td>Irregular services</td>
<td>967.7</td>
<td>93.2</td>
</tr>
</tbody>
</table>

PKP companies of the total

Municipal public services – fleet as of 31 December 1998

| Buses                  | 12120  | 100% |
| - public sector        | 11666  | 96.3 |
| - of which: communal   | 11555  | 95.3 |
| - non-public sector    | 454    | 3.7  |
| Trams                  | 3876   | 100.0|
|                        | 3440   | 88.8 |
| of which communal      | 228    | 100.0|

Are there limitations on the number of vehicles (or total tons) each firm operates?

No.
(Part of the Report based on the contribution of the Office for Competition and Consumers Protection - OCCP)

134. General provisions of the Act of 24 February 1990 on counteracting monopolistic practices and protection of consumer interests (consolidated text published in OJ of 2000 No. 31, item 381) apply equally to all sectors of economy, including the transport sector. The monopolistic practices, as defined by the Act, are as follows:

1. conclusion of competition restricting agreements,
2. abuse of a dominant position.

135. Article 6 of the Act provides a general prohibition of monopolistic practices. Nevertheless, President of the Office for Competition and Consumers Protection (OCCP) may issue a decision allowing for application of such practices provided that interested entrepreneurs prove that the practices “are for technical, organisational and economical reasons necessary to perform economic activity and do not cause significant restriction of competition.” (so called “rule of reason”).

136. The draft Act on competition and consumers protection, which is to replace the current Act, provides for a few important changes in this matter. The provision concerning "the rule of reason" will be amended and the prerequisites contained in it will be modelled on Article 81 of the EU Treaty, including that it will no longer apply to the abuse of a dominant position. The draft Act introduces two types of exemptions from the prohibition to conclude the competition restrictive agreements:

1. statutory exclusions – to cover so called agreements of minor importance, the effect of which is of no importance for the state of competition on the market;
2. block exemptions – to cover specific types of such agreements, elaborated by means of a regulation of the Council of Ministers.

137. Authority responsible for implementation of tasks related to protection of competition, including protection of competition in the transport sector, is the President of OCCP. Sectoral regulator in the transport sector is the Minister of T&ME. Co-operation between OCCP and the Ministry of T&ME consists in consulting legal acts drafted by the Ministry for their conformity with rules on competition.

138. In the past few years, there have been no mergers or concentrations in the field of road transport. Currently, almost 170 passenger transport companies operate in the market (established after division in the early 90's of a large state owned passenger transport company – Państwowa Komunikacja Samochodowa PKS). At the same time a number of small size companies flourished – often operating not more than one connection – owned by natural persons. In addition, a great number of companies owned by the local authorities perform the road transport services.
(1.11) Have you addressed concerns involving horizontal agreements in this sector? Have anticompetitive arrangements been prosecuted? Have you found cases of collusive tendering or bidding? Have you cleared certain horizontal arrangements on the basis of their efficiencies and/or pro-competitive effects? Have certain forms of collaboration or joint ventures emerged in this sector?

139. The Office has not received any complaints or information indicating that such horizontal agreements occur in this sector.

(1.12) What experience do you have with abuse of dominance in this sector? Have you required access to an “essential facility” such as a bus station in an urban area? What cases or predatory pricing have addressed? What principles have you followed when determining whether a particular competitive response is predatory?

140. In the last few years the Office initiated several proceedings on the motion of private entrepreneurs, whose access to specific bus stops was limited by the local authorities (being at the same time the owners of the transport companies operating on the same geographical market) or who were discriminated during co-ordination of timetables (local authorities allocated worse slots in case of several attractive bus stops). As a result of the Office actions the local authorities ceased to apply such practices.