



ROYAL NORWEGIAN MINISTRY
OF TRANSPORT AND COMMUNICATIONS

EFTA Surveillance Authority (ESA)
Rue Belliard 35
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Belgium

Your ref

Our ref

Date

15/3147-

11 December 2017

Answer - Reasoned Opinion regarding the market for taxi services in Oslo (the Authority's decision no. 041/17/COL)

Reference is made to the Reasoned Opinion of 22 February 2017 from the EFTA Surveillance Authority (the Authority) concerning certain provisions governing access of transport operators to the market for taxi services, and their compliance with Article 31 (1) of the EEA Agreement. Further reference is made to the letter of 26 October 2017 from the Authority extending the deadline to reply to the Reasoned Opinion until 20 December 2017.

In the Reasoned Opinion, the Authority takes the view that the applicable Norwegian legislation on access to the market for the provision of taxi services constitutes a restriction on the freedom of establishment under Article 31 (1) EEA. The measures in question are the numerical limitation of licences, the principles on allocation of licences and the obligation to be affiliated with a dispatch central. The provisions are contained in the Norwegian Act on Professional Transport of 21 June 2002 no. 45 (the Professional Transport Act) and the Norwegian Regulation on Professional Transport of 26 March 2003 no. 401 (the Professional Transport Regulation).

It is very important for the Norwegian Government that the taxi market functions well, and that there is a satisfactory supply of taxi services throughout the country.

The Ministry of Transport and Communications acknowledges that the taxi market today does not work satisfactorily in all parts of the country. The Ministry recognises the emergence of new technology and new operators in the passenger transport market, in particular linked to the sharing economy. This development has to a large degree changed the consumer's expectations of the taxi service, and can potentially contribute to change the

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way the taxi market functions. We have noted that Denmark and Finland are in the process of liberalizing their taxi markets. Sweden liberalized the taxi market in the 1990s.

On this background, the Ministry has assessed the Norwegian taxi legislation. In this context, the Ministry has considered both the Authority's Reasoned Opinion and the report from the Sharing Economy Committee of 6 February 2017.

The Ministry recognises that the numerical limitation of licences included in the current legislation constitute a restriction on new operators who wishes to access the taxi market. The Ministry underlines the importance of facilitating for innovative solutions based on new business models and new technology. The current taxi legislation does not promote such innovation to a satisfactory degree. The Ministry therefore concludes that there is a need for amendments in the current taxi legislation.

A new legislative framework for the taxi market must safeguard many important objectives, including a satisfactory supply of taxi services throughout the country, the safety of the passengers and well-functioning competition in order to give the consumers a best possible service. It is also important that the new regime promotes the use of new technology, and that new operators are given the possibility to establish themselves in the market on the same terms as established operators. The legislation must also be in line with EEA-law.

The Ministry will prepare a consultation paper proposing to remove the numerical limitation in the taxi legislation throughout the country. The removal of the numerical limitation will also entail a removal of the rules on the allocation of licences. The Ministry will also propose a removal of the obligation to be affiliated with a dispatch central. In preparing the hearing, the Ministry will assess how we, without such an obligation, can ensure a satisfactory control of the taxi operator's income for tax purposes. In the consultation paper, the Ministry will propose to keep the requirement for all taxi operators to hold a licence.

The numerical limitation of taxi licences in Norway is an important measure in order to secure a satisfactory taxi service throughout the country. A revision of the taxi legislation must therefore include measures safeguarding the taxi service, both in cities and in rural areas. On this background, the Ministry has assessed alternative measures that may serve to secure a sufficient level of taxi services throughout the country if the market does not provide this on a commercial basis.

The Ministry will propose that if the market does not provide the desired level of transport services on a commercial basis, local authorities may compensate for public service obligations in the form of a compensation or an exclusive right. The compensation or exclusive right would be granted as contracts, and would be time limited and awarded in line with relevant procurement rules. This is parallel to the system used in public transport, cf. Regulation (EC) 1370/2007. This system ensures competition for the market where both established and new operators can participate. The County Municipalities can conduct local assessments and ensure that any market restriction does not go beyond what is necessary

to achieve a satisfactory taxi service. The Ministry will in connection with the regulatory work, return to the Authority with an assessment of the need to set criteria that the County Municipalities will need to use in order to prove that the free market does not provide a satisfactory taxi service.

In the proposal for amendments in the taxi legislation, the Ministry will propose measures giving the County Municipalities the possibility to grant exclusive rights and/or compensation within defined geographical areas in order to ensure a satisfactory transport service in the region, ref. the discussion above. It is important that the measures are in line with EEA law. It is settled case law within the EEA that any restriction on the freedom of establishment, which is applicable without discrimination on grounds of nationality, can be justified if the restriction serves overriding reasons in the public interest. In order to be justified, the restriction must be suitable and necessary for obtaining the objective pursued.

The amendments that the Ministry will propose in the taxi legislation will entail substantial changes for the market operators. The Ministry will therefore set a time period from the final decision in the Parliament to the entry into force. In the process of preparing the consultation paper, the Ministry will consider how long this period should be.

The Ministry will give the revision of the taxi legislation high priority in the time to come, also with regards to progress. We stress the importance of conducting a thorough work in order to ensure that a new legislative framework is in line with the abovementioned objectives. We will prepare a proposal for amendments in the legislation, and our aim is to send this proposal out on a public consultation during the third quarter of 2018.

Yours sincerely

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This document is signed electronically and has therefore no handwritten signature