II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION OPINION

of 23 December 1977

addressed to the Government of the Italian Republic on the draft law implementing Directive 74/562/EEC on admission to the occupation of road passenger transport operator in national and international transport operations

(78/96/EEC)

Under cover of a letter of 9 September 1977, the office of the Italian Permanent Representative to the European Communities sent to the Commission, for consultation, the text of a draft law to implement Council Directive 74/562/EEC of 12 November 1974 on admission to the occupation of road passenger transport operator in national and international transport operations [1].

This was in accordance with Article 6 (1) of that Directive.

The Commission regrets that the Italian Government, by delaying the communication of the implementing measures, has not satisfied by the appointed time its duties under Article 6 of the Directive and, furthermore, has prevented this opinion from being delivered in due time.

With reference to the abovementioned draft law, the Commission hereby delivers the following opinion :

1. The Commission finds that the Italian draft law generally satisfies the provisions of the aforementioned Directive with regard to admission to the occupation of road passenger transport operator.

2. The Commission would make the general remark, however, that in order to implement the Directive properly, it should be clearly stated that the requirements laid down in Article 2 of the draft law must be met in order that admission to the occupation may be regulated.

The Commission would therefore draw the attention of the Italian Government to this point in order that this omission may be rectified.

3. With regard to the condition of entry on the register of undertakings at the Chamber of Commerce, as provided for in Article 4 of the draft law, the Commission is of the opinion that this practice may be allowed for the purpose of proving financial standing, on condition that it is not in turn made subject to other conditions which are not included in the Community Directive.

4. The Commission also notes that Article 5 of the draft law exempts natural or legal persons whose principal activity is not that of road passenger transport operator from the professional competence requirement on condition that they do not operate more than one short-distance bus service or one bus and driver for hire and are not engaged in any international transport operation.

In this context, the Commission is of the opinion that the concept of a 'short-distance' bus service should be clarified in order to ensure legal certainty.

The other provisions of the draft law satisfy the obligations laid upon the Member States by Directive 74/562/EEC.

Done at Brussels, 23 December 1977.

For the Commission

Richard BURKE

Member of the Commission

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[1] OJ No L 308, 19. 11. 1974, p. 23.