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Firstly, it is important to note that cabotage rules are in place for both the transport of passengers and the transport of goods, but the two sets of rules are different.

The **transport of goods** title in the road transport chapter of the TCA applies to the transport of goods by road with a commercial purpose. The provisions on market access in Article ROAD.4 only apply to road haulage operators using a vehicle as defined in Article 3, which provides that the vehicle must be used exclusively for the transport of goods. As a result, the transport of goods for a commercial purpose on a vehicle used for the carriage of passengers and goods is not permitted.

As you know, the transport of goods title allows UK hauliers to undertake unrestricted bilateral journeys to and from the EU, and unrestricted transit through the EU to a non-EU country. It permits up to 2 additional movements within the EU after a laden international journey from the UK (either cabotage or cross-trade, with a maximum of one cabotage movement).

The **transport of passengers** title provides for some additional rights in addition to what is provided by the Interbus Agreement. Article X of this title sets out that it applies to the occasional, regular and special regular transport of passengers by coach and bus.

Together with the Interbus Agreement, the transport of passengers title allows UK passenger transport operators to run international services to and from the EU and other Contracting Parties to the Interbus Agreement.

There is a key difference in how cabotage rules apply to passengers as compared with goods. In the context of passenger transport, cabotage refers to the movement of passengers between two or more locations within a territory other than the territory in which the operator is established. If a UK bus operator takes a group of passengers from the UK on a tour of 10 different cities in France, that would not constitute cabotage as the passenger list stays the same throughout – they are not moving passengers between locations in France but rather moving passengers from the UK through multiple locations in France and returning them to the UK. Such journeys are considered “closed-door” services, which, while comparable with the haulage tours for cultural events we have been discussing, benefit from a different

interpretation of cabotage. If the same operator were to pick up additional passengers in Paris and take them to Lille however, that would be a cabotage movement.

The transport of passengers title allows cabotage for services between Northern Ireland and the Republic of Ireland only. For services operating between the UK and continental Europe, cabotage is not allowed. An example of how this might affect tour operators is the scenario in which a UK bus carrying band members and crew from the UK on a European tour. As long as all passengers board the bus in the UK, and no additional passengers are picked up within the EU, the bus will be able to make as many stops in the EU as it likes. If, however, half way through the tour, some additional musicians fly to a destination within the EU and join the bus – any further movements with that passenger on board will be considered cabotage and will not be permitted.

So to answer your three questions:

- 1) **Are tour buses that are used to transport band and crew only subject to cabotage rules?**

Yes, they are subject to restrictions on cabotage as per the transport of passengers title of the TCA, and the Interbus Agreement.

- 2) **If they are not, can they pull a trailer behind the bus with the band kit in as long as the kit is for the bands use ie personal items such as instruments. Not sound and lighting etc.?**

In our view, if goods being carried on a bus (whether in a trailer or not) are clearly the possessions of those travelling on the bus, then that is unlikely to be considered transport of goods for a commercial purpose. Therefore, the journey would remain subject to the transport of passengers title only.

- 3) **If a tour bus and trailer is not subject to cabotage rules, can they work on the assumption that a 3.5T splitter bus (a 3.5T Bus that is divided to carry personal band kit such as instruments in a compartment in the rear) is also not subject to cabotage rules?**

As above, if the goods being carried in the rear compartment are clearly personal items then the journey will be subject to the provisions of the transport of passengers title. If however, the bus was carrying lighting equipment, speakers and so on, then it would be difficult to argue that those goods are not being transported for a commercial purpose and as per the above, such journeys must be carried on a vehicle used exclusively for the carriage of goods, so may not be carried on a bus or coach (or a splitter bus).

It is of course difficult to determine what might amount to personal

possessions. One guitar sounds fine; 10 different guitars for different parts of the concert seem likely to be considered goods carried for a commercial purpose.

As you may be aware, during the last DCMS Working Group, the Production Services Association (PSA) mentioned that the Commission might have commented on the issue of splitter vans and that they might have a different view. We have contacted the Commission to confirm their view and we'll share this with you if it differs from any of the above, but we think the TCA is quite clear about how this should operate.