

Written evidence submitted by Logistics UK (NBB29)

Nationality & Border Bill Committee submission

Summary of Logistics UK

Amends to the Bill should be secured to ensure that:

- *No penalty levied against vehicles found 'unsecure' with no illegal migrants*
- *No automatic penalty levied against hauliers if signed up to Accreditation Scheme*

About Logistics UK

Logistics UK is one of Britain's largest business groups and the only one providing a voice for the entirety of the UK's logistics sector. Our role, on behalf of over 18,000 members, is to enhance the safety, efficiency and sustainability of freight movement throughout the supply chain, across all transport modes. Logistics UK members operate over 200,000 goods vehicles - almost half the UK fleet - and some one million liveried vans. In addition, they consign over 90 per cent of the freight moved by rail and over 70 per cent of sea and air freight.

Response to Bill

Section 39 and Schedule 4

Logistics UK is concerned with Section 39 and Schedule 4 (Penalty for failure to secure goods vehicles) within the Nationality and Borders Bill. This schedule seeks to amend the Immigration and Asylum Act 1999 to make provision for the imposition of a penalty for failure to adequately secure a goods vehicle against unauthorised access and other related matters.

People smuggling and the facilitation of illegal immigration into the UK by criminal gangs is a significant challenge for the haulage industry when its vehicles are bound for the UK, and the phenomenon of clandestine vehicle entry has moved way beyond proximity to the channel ports and much deeper into the northern European road network.

In addition to the victims of smuggling, this activity has a real and degrading effect on the working conditions of professional drivers and hauliers as their vehicles are actively targeted by individuals and organised crime groups. Migrant incursions have a range of detrimental effects, ranging from anxiety of being a solo driver confronted with a gang of criminals along the roadside at night to physical violence against drivers and their vehicles in the worst cases. The effect is also felt much wider depending on the industry sector, i.e. the loss of "contaminated" loads in the fresh food sector if there is a suspicion that the loading unit has been compromised.

Responsible operators and drivers are thus victims of organised crime groups facilitating smuggling and should not be considered as part of the problem. Whilst a minority of individuals may decide to knowingly put themselves on the wrong side of the law, the legitimate sanctions they deserve should not adversely affect the majority of responsible hauliers, result in unrealistic expectations or disproportionately increase the burden they are already facing to perform their duties in a safe and secure manner.

There is no legal standard defining the minimum expected security levels on vehicles however Logistics UK members adhere to the Civil Penalty Code of Practice that was drawn up and, subsequently, strengthened in 2016 following consultation with industry. Logistics UK is ready to enter discussions with the government on amending the Civil Penalty Code of Practice to set revised standards, however any new policy measure must protect the interests of hauliers and drivers who operate in good faith and must take into account existing schemes providing incentives and requirements in terms of supply chain security.

If a haulier is using security seals that are set out in the following schemes, or other schemes that have similar standing in regulation, then they should be accepted by Border Force as evidence of appropriate sealing and vehicle security:

- AEO S – global initiative to improve supply chain security, based on UN guidelines and implemented into UK and EU law. Freight operators must pass stringent security tests to become AEO S authorised. [Link for more information](#)

- Official Customs Seals – HMRC have produced detailed guidance on the type of seals that can be used to demonstrate that a vehicle is moving goods under customs control and hasn't been tampered with. See [Customs Notice 205](#)
- Regulated Agent and Known Consignor – to handle secure air cargo which is moved by road to be loaded onto passenger aircraft, freight forwarders must become authorised to very stringent security standards, known as Regulated Agent. A similar security scheme is available to traders who move their own products in secure vehicles; "Known Consignor". The schemes are administered by the CAA; information here: <https://www.caa.co.uk/Commercial-industry/Security/Compliance/Known-Consignor-Scheme/>

Logistics UK believes that hauliers operating with these accreditations should be immune to the penalty under consideration when no illegal migrant is found on board, unless there is other evidence demonstrating an intention to facilitate illegal entry. The burden of the proof should lie on the authorities. As such Logistics UK calls for the following clause to be removed -

31A (3) A penalty may be imposed under subsection (1) regardless of whether any person has obtained unauthorised access to the vehicle during its journey to the place mentioned in subsection (2).

This would de facto negate the benefits of the associated Accreditation Scheme for hauliers of the Clandestine Entrant Civil Penalty Scheme, which helped many UK and foreign operators strengthen their security procedures and provided reassurances to good faith hauliers. Logistics UK supported and promoted the development of the Accreditation Scheme as a legitimate legal defence for hauliers operating to the standards as laid down in the Civil Penalty Code of Practice. The government needs to set out its plans for the future of the Accreditation Scheme if it wishes hauliers to continue to use it.

Logistics UK members have formally instructed their drivers to notify border officials at the channel ports if they believe the vehicle has been infiltrated so that it can submit to pre-control checks, e.g. at the Eurotunnel facility in Calais, which would form part of their defence should a clandestine be found aboard, this demonstrates concerns about incursions and willingness to act in good faith.

The detection systems used at the ports, e.g. motion/heartbeat/CO2 detection are not 100% effective in locating people hidden on board a vehicle. There are examples of stowaways found in vehicles after the border crossing that have been cleared by these detection systems. It is therefore unrealistic to expect hauliers, who are neither trained security staff nor immigration officials, to outperform Government agencies and unfair to deprive them of any defence when they took all reasonable measures to mitigate the risk of illegal entrants, most certainly if the vehicle is deemed to match any future 'secure' vehicle definition.

In the 2016 consultation, Logistics UK (at that time FTA) stated that the £2000 per migrant was too high for a haulier operating honestly and securely but was to have been found with people smuggled into their vehicle, despite all best endeavours being undertaken. Any increase in this figure, especially if it is to be levied in all cases of intrusion detection, would be a serious disincentive for hauliers and drivers to accept contracts that involve the crossing of the UK border. The government needs to recognise this impact any increase in the levy would cause.

Overall, placing a quasi-systematic presumption of wrongdoing on drivers and weakening or removing available defences is not only questionable on a procedural and ethical level, it will also damage the attractiveness of the profession and worsen the driver shortage the industry is experiencing.

Logistics UK would welcome further opportunities to discuss the measures with the Bill Committee.

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Logistics UK

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