

Priority Action B:

Explanatory terms and definitions;

Entity obligations with clarification of articles

Introduction

This document provides clarification on the interpretation of some of the terms in the COMMISSION DELEGATED REGULATION (EU) No. 2015/962 (Priority Action B) which supplements the European ITS Directive 2010/40/EU.

In addition it provides clarification on the obligations placed by the Delegated Regulation on the relevant entities, supported with clarification of the intent behind some of the Articles in the Delegated Regulation No. 2015/962.

Definitions of Road Authorities; Road Operators; (real-time traffic information) Service Providers and Digital Map Producers

The COMMISSION DELEGATED REGULATION (EU) No. 2015/962 (Priority Action B), which supplements the European ITS Directive 2010/40/EU, involves four kinds of entities: two representing the public domain (Road Authorities and Road Operators) and two representing the private sector (Real-Time Traffic Information Service Providers and Digital Map Producers).

Road Authorities and Road Operators

Although Road Authorities and Road Operators could be private and operating on behalf of public bodies, these entities are to be understood as belonging to the public sector within the provisions described in Delegated Regulation No. 2015/962 (Priority Action B). They are responsible for the control and management of the roads belonging to the Trans-European network as well as that of motorways and 'priority zones' (interurban/urban busy roads), when these have been identified as such voluntarily, by the national authorities. Those entities may collect and hold real time traffic information, which in the Delegated Regulation means information derived from static road data, dynamic road status data and traffic data or some of these three categories of data.

According to Art. 2 *Definitions* in the Delegated Regulation No. 2015/962 a 'road authority' means "any public authority responsible for the planning, control or management of roads falling within its territorial competence" while a 'road operator' means "any public or private entity that is responsible for the maintenance and management of the road".

Service Providers and Digital Map Producers

Although nothing prevents a public entity to be a (real-time traffic information) Service Provider, (real-time information) Service Providers and Digital Map Producers are perceived within the provisions of this Delegated Regulation as being private entities. They are the entities that collect and hold static road data, dynamic road status data and traffic data or some of these three categories of data, with the aim to create services and products for

commercial use. They may use and re-use data provided by Road Authorities and Road Operators in combination with that data which they themselves collect and by fusion or other process maintain a commercial business with customers on real-time traffic information service provision and digital map services (including location referencing).

According to Art. 2 *Definitions* in the Delegated Regulation No. 2015/962 a ‘Service Provider’ means “any public or private provider of a real-time traffic information service, excluding a mere conveyer of information, to users and end users”. The exclusion specified in this definition aims at excluding information radio (or other) broadcasters from the obligations under this Regulation.

The Delegated Regulation No. 2015/962 does **not** provide a definition for “Digital Map Producer”. In the context of these Declarations of Conformance, a “Digital Map Producer” is understood as “an entity that collects and holds static road data, with the aim to create products and services for commercial use”.

An entity may fulfil more roles

In Europe, any of the four entities (Road Authorities, Road Operators, Service Providers and Digital Map Producers) may fulfill one or more of these roles.

Obligations of Road Authorities and Road Operators

Road Authorities and Road Operators are obliged to make accessible for use and re-use the **static road data** they collect and update (according to the specifications set in Art.8: informing on the type of static road data, the location of the condition concerned by the update; the type of update; the description of the update, the date of update; date and time of occurrence and quality) in a standardized format to any¹ digital map producer or Service Provider within the Union.

The **corresponding metadata** (including information on the quality) shall also be made accessible for use and re-use to interested Digital Map Producers and Service Providers. In addition, Road Authorities and Road Operators shall comply with Art. 3.4 in ensuring that they provide the appropriate metadata in cooperation with Digital Map Producers and Service Providers so that users can discover and use the datasets via the National Access Points.

Inaccuracies related to static road data have to be corrected without delay by the Road Authorities and Road Operators.

With regard to **dynamic road status data and traffic data**, Road Authorities and Road Operators are obliged to make accessible for use and re-use the dynamic road status data and traffic data they collect and update (according to the specifications set in Art.9 and 10: informing on the type of dynamic road status data, the location of the condition/event concerned by the update; the period of occurrence of the event; the quality of the data

¹ ‘any’ means on a non-discriminatory basis.

update) in DATEX II format while also ensuring that the updates are timely and where known and possible, these updates should be provided in advance.

The **corresponding metadata** (including information on the quality) shall also be made accessible for exchange and re-use by any² Service Provider within the Union.

The timely provision of the dynamic road status data and traffic data and the corresponding metadata has to be done by the Road Authorities and Road Operators in good time so that it ensures the timely provision of the real-time traffic information service and through the national access point.

Road Authorities and Road Operators are (according to Art. 11) obliged to submit a **Declaration of Compliance** to the responsible national authorities and they may additionally be requested by Member States authorities to provide the following documents as part of their Declaration of Compliance:

- a. A description of the static road data, dynamic road status data and traffic data they provide as well as the information on the quality and the conditions of re-use of these data;
- b. An evidence based declaration of compliance with the requirements set out in Arts. 3-10 of the Delegated Regulation

Note: this description above is a summary of the obligations and content in broad terms. For an exact description of obligations please enquire with the national body designated for the assessment of compliance of the applicable Member State(s).

Obligations of real-time traffic information Service Providers and Digital Map Producers

Digital Map Producers and real-time traffic information Service Providers using **static road data** are obliged to collaborate with Road Authorities and Road Operators in order to ensure that any inaccuracies related to static road data are signaled without delay to the Road Authorities and Road Operators from which the data originates.

Digital Map Producers and Service Providers are obliged to process the updates in their **static road data** as these are sent by the Road Authorities and Road Operators in a timely manner in order to make the information accessible to end users without delay. Service Providers are obliged to do the same with regards to **dynamic road status data and traffic data**.

With regards to **traffic management**, Service Providers using static road data or dynamic road status data provided by Road Authorities and Road Operators shall take into account as far as possible any traffic circulation plans or temporary traffic management measures developed/taken by the competent authorities.

² 'any' means on a non-discriminatory basis.

For the purpose of **optimising traffic management**, Road Authorities or Road Operators may request Service Providers to provide the traffic data they collect and update. Such data has to be provided in DATEX II or a fully DATEXII compatible format through the National Access Point. It shall be accompanied by the corresponding metadata including information on the quality. This is expected to be an exceptional request from the Road Authorities and/or Road Operators. When such a request takes place, Service Providers have to abide. Nonetheless, there is no obligation imposed to Service Providers by the Delegated Regulation to provide this traffic data free of charge. As explained in the Appendix, which clarifies Article 6 of the Delegated Regulation, Art. 6 does not oblige Service Providers to share this data for free with the Road Authorities and Road Operators.

Note: A detailed analysis on the intent of Article 6 is provided in the appendix to this document.

Service Providers and Digital Map Producers are (according to Art. 11) obliged to submit a **Declaration of Compliance** to the responsible national authorities and they may additionally be requested by Member States authorities to provide the following documents as part of their Declaration of Compliance:

- a. A description of the real time traffic information services or digital map they provide as well as the information on the quality and the conditions of re-use of the covered data;
- b. An evidence based declaration of compliance with the requirements set out in Arts. 3-10 of the Delegated Regulation

It should be noted that Service Providers who collect their own traffic data, and who don't make use of data collected and updated by Road Authorities and/or Road Operators, are not obliged to submit a Declaration of Compliance, unless they are specifically requested to provide traffic data by Road Operators and/or Road Authorities for the purpose of traffic management under Article 6(3) of the Delegated Regulation No. 2015/962.

Note: this description above is a summary of the obligations and content in broad terms. For an exact description of obligations please enquire with the national body designated for the assessment of compliance of the applicable Member State(s).

Choice of language for providing and filling in the Declaration of Compliance

It is strongly recommended for organisations responsible for the assessment of compliance to provide the Declaration of Compliance in at least the English language (to address internationally operating entities) next to, if they so wish, also the national language of the Member State. Respondents should be permitted to fill in the Declaration of Compliance in either language.

Appendix

Priority Action B: Clarification for Article 6 and its Intent

Introduction

This section aims to clarify the intent of Article 6 of the COMMISSION DELEGATED REGULATION (EU) No. 2015/962 (Priority Action B) which supplements the European ITS Directive 2010/40/EU.

Article 6

Article 6 of the COMMISSION DELEGATED REGULATION (EU) No. 2015/962 (Priority Action B) which supplements the European ITS Directive 2010/40/EU, concerns the provision, accessibility, exchange and re-use of traffic data.

Two previous articles, Articles 4 and 5, request Road Authorities and Road Operators to provide the *static road data* (art. 4) and *dynamic road status data* (art. 5) they collect and update in an interoperable manner and on a non-discriminatory basis. Both these articles state that Service Providers, when using such static or dynamic road status data, “**shall** take into account, as far as possible, any temporary traffic management measures taken by the competent authorities” (Art. 4(3) and Art. 5(3)).

Art. 6(3) makes a more specific request with regards to *traffic data* and Service Providers on the possibility that Road Authorities and Road Operators “**may** request Service Providers to provide the traffic data they collect and update pursuant to Article 10...through the access point referred to in Article 3 and accompanied by the corresponding metadata including information on the quality thereof”.

The fact that Art. 6(3) uses the term ‘**may**’ and not ‘**shall**’ (as ‘**shall**’ is clearly used in the other articles of this law) is indicative of the exceptionality of the case it aims to describe. Road authorities and Road Operators are expected to make such a request to the Service Providers on exceptional cases only, and not on a regular basis.

This exceptionality, stated in Art. 6(3), is also enhanced by the justification provided, should this request be made to Service Providers: for “the purpose of optimising traffic management”. On the contrary, Articles 4 and 5 mention traffic management and the fact that Service Providers should take into account “as far as possible, any temporary traffic management measures (Art. 5(3)) or any traffic circulation plans (Art. 4(3)) taken by the competent authorities”, and they do not seek to impose alignment on information given to the road users. The intention of Arts 4 and 5 is to enhance and nurture the cooperation of Service Providers and Road Authorities in ensuring the update of their information.

Art. 6(3) takes a more advanced view on this by stating that on exceptional cases such as the optimisation of the traffic management is, Service Providers **will have** to provide traffic data to the Road Authorities and Road Operators so that these can optimise their traffic management.

Art. 6(3) does not oblige Service Providers to share this data for free with the Road Authorities and Road Operators, neither does it entitle Road Authorities and Road Operators to distribute this data to other parties. This intention of Art. 6 is supported throughout the Delegated Regulation and more specifically, points 5 and 17 of the Preamble to the Delegated Regulation. Point 17 for example, clearly states that there is no obligation on Service Providers to share their data with other Service Providers and that they are free to conclude commercial agreements with other Service Providers for the use of the static and dynamic road status data as well as traffic data. Point 19 similarly states that the specific terms and conditions applicable for the use or re-use of such data for optimisation of traffic management by public authorities to improve traffic management as well as infrastructure management and maintenance “should be left to the parties concerned”.
