acea

April 2022

ACEA Position Paper

Proposal for the revision of the ITS Directive

KEY RECOMMENDATIONS

1. Complete the set-up of national access points (NAPs).
2. Harmonise NAPs, as well as NAP metadata formats.
3. Define a plan for centralising data-sharing between NAPs.
4. Set out an action plan for the adoption of ITS specifications in consultation with ITS service providers, with a timeline for adopting relevant delegated acts.
5. Prioritise the adoption of C-ITS specifications.
6. Include a clear definition of emergency situations that justify the adoption of interim measures.
7. Introduce checks and balances on the emergency powers of the Commission, including a six-month time limit on interim measures adopted (Article 8, Regulation 182/2011), and the consultation of ITS service providers prior to and during the emergency period.
8. Prioritise the deployment of 'essential' services and provide basic guarantees for ITS service providers who are expected to share data with NAPs.
9. Adopt additional guarantees for ITS service providers who are expected to share privately-held data with NAPs.
10. Revise the specifications for the interoperable EU-wide eCall to reflect the need to switch to next generation eCall technology, and ensure continuity of service during the transition period.
11. Involve ITS service providers in all ITS activities in a timely and meaningful manner.
12. Involve ITS service providers in the EU ITS Committee.
13. Consult and involve the ITS Advisory Committee in the development of the ITS action plan and the adoption of all secondary legislation.
14. Update the principles of interoperability and maturity laid down in Annex II, and add the principle of technological neutrality.

THE CONTEXT

The Directive on Intelligent Transport Systems[1] (ITS Directive) was designed to be the framework for accelerating and coordinating the deployment and use of ITS for road transport, as well as its interfaces with other transport modes. Over the past 10 years, this has led to great improvements.

Yet, as highlighted in the European Commission's impact assessment, the Directive has certain limitations, most notably regarding:

- interoperability;
- continuity of services;
- cooperation among stakeholders; and
- availability and sharing of data supporting ITS services.

In this context, the European Automobile Manufacturers' Association (ACEA) welcomes the Commission's proposal for a Directive amending the ITS Directive. This proposal addresses a number of the issues regarding improved road safety, and at the same time assures coherence with other EU policies that depend on radio communication along Europe's road network.

Nevertheless, Europe's automobile manufacturers are **concerned by the wide extension of the Commission's power to adopt secondary legislation. They are also concerned by the increased obligations for ITS service providers – with no corresponding increase in member states' obligations.** This regrettably fails to translate into a greater involvement of ITS service providers in decision making, which ACEA believes is essential for effective ITS services.

NATIONAL ACCESS POINTS

ACEA welcomes the introduction of an obligation for member states to provide data types and ITS services for specific geographical areas. This increases predictability and will have a positive effect on the reliability of the ITS ecosystem.

This new requirement strongly reinforces the importance of national access points (NAPs). It is therefore crucial to ensure that member states take the necessary steps to fulfil their obligations to make data available through their respective NAPs.

As it stands, several member states have not set up NAPs for data on safety-related traffic information (SRTI), real-time traffic information (RTTI), safe and secure parking areas

[1] Directive 2010/40/EU of the European Parliament and of the Council on the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other modes of transport

(SSTPAs) and multimodal travel information services (MMTIS).[2] Under the current system, ITS service providers who would like to use data from NAPs need to use 27 different interfaces in local languages to access the data. As the available data differ, the opportunity to deploy a single ITS service throughout all member states is severely limited.

As a result, discrepancies and delays still exist in the implementation of NAPs. This in turn leads to a serious risk of fragmentation when member states fulfil their new obligations under the ITS Directive.

ACEA believes that addressing these discrepancies should be a priority. Expecting stakeholders to make their data available to NAPs, businesses and society at a time when the means of sharing these data either do not exist or do not operate properly, and are not harmonised across the EU, will not serve the objectives of the ITS Directive, nor will they deliver the expected benefits.

ACEA calls for the setting up of NAPs to be finalised as soon as possible. This should be a priority action for the Commission and for member states under the ITS Directive.

Furthermore, the Commission should define a clear plan for the incremental harmonisation of NAPs. This plan should be implemented with the cooperation of member states through the National Access Plan Coordination Organisation for Europe (NAPCORE). At a minimum, the Commission should adopt guidelines on members states' cooperation on the priority areas (Article 9).

A further step towards making NAPs more uniform EU-wide is the harmonisation of NAP metadata (and data) formats (Recital 7). As the mobility data space transfers not only data but also metadata, harmonisation here is strongly encouraged and would promote further consistency. ACEA supports the proposal as it contributes to the common European mobility data space by increasing the availability of data on NAPs and simplifying re-use of data.

As detailed below ('Data for ITS services'), clear guarantees should be provided for private stakeholders who are expected to share privately-held data with NAPs.

As part of this harmonisation plan, the Commission should explore, together with member states, the processes by which data sharing between NAPs can be centralised. NAPs should cooperate to share relevant data with each other, thus allowing data holders to share data with a single NAP, which would then share this with other relevant NAPs (rather than obliging each stakeholder to share data with individual NAPs).

ACEA recommends that, within this process, the European Commission – or a competent Union body or agency – is entrusted with ensuring interoperability and sharing relevant data between NAPs.

[2] See European ITS Platform, 'Annual NAP Report 2020', 26 February 2021, available at https://its-platform.eu/wp-content/uploads/ITS-Platform/AchievementsDocuments/NAP/EU%20EIP%20-%20National%20Access%20Points%20-%20annual%20report%202020.pdf

SECONDARY LEGISLATION

The Commission is empowered, through a delegated regulation, to adopt specifications for the priority areas laid down in Article 2 of the Directive. It is also enabled to amend the list of data types in Annex III as well as the list of ITS services in Annex IV, including the dates of implementation and the geographical coverage (Article 7).

The proposal confers implementing powers on the Commission to adopt immediately-applicable interim measures in emergency situations that have a severe direct impact on road safety, cybersecurity or the availability and integrity of ITS services (Article 7a).

DELEGATED ACTS

The ITS Directive has a broad sphere of application, and the range of actions for which it empowers the Commission to adopt specifications is far reaching. While adopting specifications for priority areas is essential, ACEA believes that these specifications need to be adopted in a coherent and predictable manner. This will help guarantee legal certainty, ensure planning reliability and provide sufficient lead times for relevant stakeholders. This is crucial to enable European ITS service providers to continue the roll-out of ITS and enhance their leadership in the field.

To achieve the objectives of the ITS Directive in a harmonised way throughout the EU, ACEA believes that an action plan for the adoption of ITS specifications should be adopted as part of the Commission's working programme. The ITS Directive should therefore ensure that the Commission develops a clear outline of its plan and a timeline adopting delegated acts. This working programme, and the corresponding action plan, should be adopted within the first six months following the entry into force of the Directive (Article 17(5)).

Within this plan, the adoption of specifications for Cooperative Intelligent Transport Systems (C-ITS), provided in Annex I (4.2 and 4.3) should take priority over any other specification.

When drafting this ITS action plan, the Commission should consult experts designated by each member state and by all relevant private stakeholders. The plan should be updated as the need arises, and a new plan should be drawn up every time the five-year period is tacitly extended.

Furthermore, in order to ensure predictability for all actors in the ITS ecosystem, the Commission should consult experts designated by each relevant private stakeholder prior to adopting a delegated act (pursuant to Article 12(4)).

INTERIM MEASURES

ACEA believes that compromising the integrity of ITS services could severely impact road safety, and that the ITS Directive should provide the means to prevent events with the potential to cause such disruptions. In cases where they cannot be prevented, we agree that the Commission should be empowered to take extraordinary actions to resolve such situations.

Nevertheless, we believe that the proposal fails to strike the appropriate balance between prevention – which is all but missing – and remediation, for which it provides the Commission with disproportionate powers. The definition of the emergency situations that would justify the adoption of these interim measures is so broad as to be left almost entirely to the discretion of the Commission.

Furthermore, the scope of the measures that the Commission will be empowered to adopt is not clearly defined, nor has a consultation or supervision mechanism been foreseen to keep the Commission's powers in check. In addition, no time limit is provided, as the extraordinary measures could remain in force until the Commission choses to repeal them. These provisions provide quasi-discretionary powers to the Commission to adopt sweeping measures, against which it provides no recourse other than those provided in the Treaties.

ACEA calls on the legislator to provide a clear definition of the 'emergency situation' under which the Commission will be empowered to adopt interim measures (Article 2). Furthermore, we recommend that a greater emphasis be put on prevention and mitigation of future risks, with a view to avoid – as much as possible – such emergency situations.

Finally, we recommend that the Commission's power to adopt interim measures is strictly bound by the provisions laid down in Article 8 of Regulation 182/2011, including the six-month time limit, after which these implementing acts are automatically repealed (Article 8(2)). The legislator should also provide for a consultation process for impacted stakeholders, both prior to and throughout the duration of the emergency period, in addition to the consultation process with the EUITS provided for in Article 15.

DATA FOR ITS SERVICES

The proposal amends the ITS Directive to mandate the availability of specific data types within a specific geographical area, specified in Annex III, and with a specific deadline (Article 6a). It includes new provisions requiring members states to ensure the availability of the data types listed in Annex III (Article 6) through NAPs (Article 2(22)).

ACEA agrees that data provision is essential to ensure the deployment and continuity of ITS services across the EU. Data sharing should therefore be encouraged where possible. At the same time, rights for data holders should be guaranteed and the conditions for this data to be reused should be laid out.

However, ACEA believes that it should be left to market players to determine what data are best suited for given use cases and events. We believe that the Commission's priority should be to ensure the consistent and effective deployment of services deemed 'essential'. Its focus should therefore be on updating Annex IV, by increasing the number of ITS services in this list in an incremental and coherent manner.

Data would then be made available depending on the service to be provided and on their availability. Once the services are identified, it should be left to the market players to operate and assess which data types are necessary for a specific service.

Furthermore, additional guarantees should be provided to ITS service providers that are expected to share privately-held data with NAPs. The specifications adopted by the

Commission under this Directive should not oblige service providers to collect any data that they are not already collecting, or to digitise data that is not already available in a machine-readable format. They should not be forced to re-use data made available by NAPs, nor should they be obliged to share their data with other service providers.

ITS service providers should remain free to use whatever data they believe best to provide their services and to conclude commercial agreements between each other for the re-use of relevant data. In any case, holders of privately-held data should not be forced to share data free of charge, and should remain at liberty to subject the data they hold to licence agreements, in order to regulate their re-use.

ACEA would also like to draw the legislator's attention to the number of concurring – and often overlapping – initiatives on data access, sharing and re-use that have been launched or planned by different Commission Directorate Generals over the past 12 months. These include the Data Governance Act, Open Data Directive, Data Act and the Access to in-vehicle data legislation (to which the ITS Directive adds its own provision). ACEA calls on the Commission and the legislator to ensure proper consistency and coherence between these initiatives.

eCALL

Annex I of the ITS Directive includes specifications to enable eCall systems to function across Europe. However, there are certain elements missing – which are covered by other pieces of legislation such as the EU Type Approval Regulation[3] – or that are yet to be regulated and pose a considerable risk of rendering the system inoperable.

Under the EU Type Approval Regulation, vehicle manufacturers are obliged to install circuit switch (CS) eCall, which relies on 2G/3G communication networks. However, mobile network operators are currently turning off their 2G/3G networks, despite this legal obligation. This will shortly lead to a situation where car makers are legally bound to equip vehicles with a system that will be inoperable due to the lack of the corresponding network.

It is therefore essential for the existence of a functioning eCall system – and for the continued safety of road users – that the Commission amend the EU Type Approval Regulation as soon as possible to repeal the obligation for manufacturers to equip vehicles with CS eCall. It could then be replaced by the next generation (NG) eCall technology.

To this end, it is vital that the specifications for the interoperable EU-wide eCall in Annex I of the ITS Directive be amended to reflect the need to adapt the EU Type Approval Regulation. This will ensure that the relevant ETSI and CEN/CENELEC standards on the NG eCall technology can be ready as early as possible. It is also important to clarify the technology licensing question: as CS eCall is offered free of license fees, this would also need to be the case with NG eCall technologies.

[3] Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles.

Finally, the Commission must ensure that at least one 2G/3G network remains up and running during the transition period, so that the legacy fleet of vehicles equipped with CS eCall, which is currently being placed on the market or already on the roads, continues to benefit from a functioning eCall system. To that end, the Commission should work with mobile network operators to find a solution which is acceptable to them, and which does not jeopardise the operation of the current service, nor the safety of road users.

COOPERATION WITH ITS SERVICE PROVIDERS

Close cooperation between the Commission, member states and ITS service providers is essential for ensuring the effective deployment and continuity of ITS services, as well as the availability of the data types relevant to the provision of these services.

The proposal foresees cooperation between members states and relevant stakeholders on operational aspects of implementation and on compliance with the specifications adopted by the Commission (Article 5(3)). Indeed, in accordance with Article 16 of the Directive, a European ITS Advisory Group – composed of representatives of relevant ITS services providers – was established to advise the Commission on the business and technical aspects of the deployment and use of ITS.

However, the ITS Directive offers little opportunity for service providers to provide input to the activities of the Commission and member states on ITS deployment. Furthermore – and despite repeated calls from ACEA and other private stakeholders to reinforce the cooperation with ITS service providers – the proposal does not offer any additional opportunity for service providers to give input on the adoption of specifications. Nor does it allow for any significant involvement in discussions on future updates to the lists of data types (Annex III) and of ITS services (Annex IV). ACEA calls on the legislator to ensure a timely, effective, and meaningful involvement of ITS service providers in these activities.

In addition, ACEA recommends that the ITS Directive allows for the participation of service providers in the European ITS Committee (EIC). ACEA is also calling for a greater engagement by the Commission with the ITS Advisory Group, which is rarely consulted and has had no meaningful involvement in discussions on the adoption of specifications through delegated regulations. Provisions should be included in the Directive that will oblige the Commission to consult the ITS Advisory Group prior to updating the action plan and to adopting any delegated regulation under the ITS Directive – be it to adopt specifications (Article 7) or to update Annex III and IV (Article 7). As explained above, ITS providers should also be proactively consulted both prior to the adoption of interim measures and throughout the emergency period provided for under Article 7a.

PRINCIPLES FOR SPECIFICATIONS AND DEPLOYMENT OF ITS

Annex II of the ITS Directive sets out the principles that the Commission is expected to comply with when adopting specifications and standards for ITS applications and services, as well as those that member states must adhere to when adopting the measures needed to ensure that these specifications are applied to ITS applications and services.

ACEA stresses the need to reinforce the following key principles that underpin the activities to be carried out under the Directive.

DELIVER INTEROPERABILITY

Interoperability ensures that C-ITS information can be utilised and understood by all users. It is essential that the exchange of information between different vehicle brands and road operators takes place in a trusted communication environment. This must be one that facilitates road safety applications for the benefit of all road users, ie based on agreed standards for the exchange of trusted information and data quality. The application of this principle should extend to all applications and services (Annex II, point e and Recital 8).

SUPPORT MATURITY

The maturity of ITS systems, as well as the ability to work across brands, infrastructure providers and EU member states is a prerequisite to the functioning of interoperable and compatible technologies, applications, and services across the EU. In addition, it is important that market introduction schemes are put in place to ensure the highest quality and performance of these ITS systems, as well as to guarantee a uniform conformity assessment and type approval process (Annex II, point i).

RESPECT TECHNOLOGY NEUTRALITY

Finally, ACEA recommends that the principle of technology neutrality be added to the list of Annex II. This proposal is linked to the interpretation of technology neutrality in the European Electronic Communications Code (EECC)[4], where technological developments are also expected to serve the public good. The EECC lays down the requirement to adhere to technology neutrality and clarifies that technological development must happen within the framework of EU law on radio regulation and the efficient use of radio spectrum. It establishes a relationship between the public good and the concept of technology neutrality.

Recital 114 of the EECC presents certain limitations to the principle of technology neutrality. While this principle represents a key element of EU spectrum regulation and ensures

[4] Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code

openness to technology evolution, it is important to bear in mind that C-ITS systems generally co-exist with other applications in the EU ITS spectrum (such as digital tachographs, toll collection systems) or adjacent frequency bands.

In addition, given the importance of service continuity and systems interoperability for achieving a harmonised EU-wide C-ITS framework where road infrastructure and road users cooperate through C-ITS services, it is important to weigh this principle against the other key principles in the ITS Directive. This will allow for a proportionate and forward-looking approach, while ensuring sustainability of existing deployments and investments (Annex II, new point).

ABOUT THE EU AUTOMOBILE INDUSTRY

- 12.7 million Europeans work in the auto industry (directly and indirectly), accounting for 6.6% of all EU jobs
- 11.5% of EU manufacturing jobs – some 3.5 million – are in the automotive sector
- Motor vehicles are responsible for €398.4 billion of tax revenue for governments across key European markets
- The automobile industry generates a trade surplus of €76.3 billion for the European Union
- The turnover generated by the auto industry represents more than 8% of the EU's GDP
- Investing €58.8 billion in R&D per year, automotive is Europe's largest private contributor to innovation, accounting for 32% of the EU total

ACEA REPRESENTS EUROPE'S 16 MAJOR CAR, VAN, TRUCK AND BUS MANUFACTURERS

ACEA
European Automobile
Manufacturers' Association
+32 2 732 55 50
info@acea.auto
www.acea.auto

twitter.com/ACEA_auto

linkedin.com/company/acea

youtube.com/c/ACEAauto