

Draft response of the Netherlands' governmental organisations

Comments should reach the Commission's services no later than the **1 March 2010** at the following address:

European Commission
Directorate-General for Energy and Transport
Unit E1 "Land Transport Policy"
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and/or to the electronic address:

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Dear colleague,

For your information I send you the view of the Netherlands' governmental organisations and administration with regard to the questionnaire that was circulated. However it should be noted that the view as indicated below is a preliminary one and should not be considered as a binding position.

Regarding the suggested changes and modifications it should be noted that in all cases a clear cost benefit analyses should be established before further discussion on these suggested changes and amendments should take place. Also the consequences related to the role and need for legislation as a (supposed) problem solving instrument, goal-based against prescriptive regulations, the (additional) administrative burden, the privacy of the driver, securing data and the possibilities to combat fraud should be analysed.

In a later stage more detailed suggestions and options could be exchanged and discussed.

Regarding the possible modifications it is necessary that a retrofit to newer and better performing systems should be possible with no or a very reduced price.

If you have questions about our responses do not hesitate to contact me.

Kind regards,

Bob Oudshoorn

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1. BACKGROUND: THE COMMUNITY ACQUIS ON RECORDING EQUIPMENT

2. CHARACTERISTICS OF THE NEXT GENERATION OF TACHOGRAPHS

2.1. Functioning of the recording equipment

Question 1 - Is it important that equipment of different manufacturers functions in exactly the same way? Or should legislation focus on essential requirements and give manufacturers more freedom to develop solutions and improve the equipment?

This question is in particular of importance for drivers and undertakings using different types of digital tachographs. The Dutch administration is in favour of deregulation and a broader use and application of goal-based regulation and transparent self-regulation. This form of regulation will give the private sector more scope to choose for the most efficient means to meet the required targets and qualities. However it is advised that the interface between the vehicle unit and the driver – control officer should be very user friendly and more or less equal. A point of major concern is, that the application of the legislation is independent of the hardware used and the Member States should have a harmonised approach to and interpretation of the legislation.

It is up to the manufacturer to provide if requested extra options and possibilities simplifying life of all users: drivers, undertakings and control officers. If drivers, undertakings and control officers have to operate many different types of digital tachographs, similarity of operation is beneficial.

In all cases it should be clear that the system should be user friendly, protect the privacy and the data should be secured in an agreed format.

2.2. Integration of ITS applications

Question 2 - Should the legislation on the tachograph already foresee the integration of the digital tachograph into an open in-vehicle platform? If so, what other regulatory applications should be integrated in this platform (e.g. e-toll, recorder for accident investigation, e-call, speed control) and why? Would it be interesting for fleet management or other applications related to safety or security of transport, or to law enforcement, to have a real-time "tracking and tracing" function?

An answer to this question requires a more profound exchange of ideas on the role of legislation (necessity and benefit) and government interference in road transport issues such as enforcement efficiency, privacy, safety and security. More specific in this matter, from our perspective, legislation should not prohibit integration of the digital tachograph within other on board systems and motor management systems. A (secured) link with other on board systems should not be excluded: it is the user / manufacturer that should make a choice for the most appropriate system storing the authentic data (read only) in a secured way.

2.3. Remote download of recorded data and speed of downloading

Question 3 - Should remote download of the digital tachograph be encouraged? Is a regulatory approach deemed appropriate in order to facilitate widespread introduction?

The Dutch administration prefers an incentive policy to a more widespread and effective use of remote downloading. It also would welcome a close cooperation between business as well as enforcement parties and the industry to assess the practical needs and materialize the mutual benefits in this field. Remote downloading is already one of the options in operation; no additional regulatory approach is necessary. If the sector wishes to do so it could be one of the options provided by the manufacturers. It is also suggested that control officers should also be in a position to use remote downloading; this could reduce the time of a road side check and administrative burden.

The time need for (secured) downloading could be reduced by using newer technologies. Legislation should not be a limiting factor.

Question 4 - What is your practical experience? Are there any obstacles for speedy download of data?

It is noted that the first versions of the digital tachograph were rather slow. Newer versions have substantially shorter download times. There is no objection for further reducing the download time.

2.4. Improvement of controls

Question 5 - How could the equipment be changed in order to make controls more efficient? Should the mobile control of moving vehicles be envisaged in order to reduce administrative burden for industry and enforcement bodies?

See also the previous questions: legislation should not be the limiting factor for the downloading of the secured (raw) data that can be analysed later. The interpretation should in principle not take place in the vehicle unit. With a view on reducing the risk on fraud only raw not interpreted and secured data should be downloaded with a view on storing and control. However it should still be possible to provide the driver with the correct (and legally accepted) warning systems such as remaining driving time etc..

2.5. Security level of the system

Question 6 - Is the current security level proportional? Can and should there be other sources of motion? Could the authenticated time/speed/positioning data provided by the future European "GPS" system, Galileo, be used as a second and independent source of motion to ensure security of data?

This question also demands a further elaboration by stakeholders on the need for measures in a technical, behavioural, legislative or supervisory sense to combat fraud. In a technical sense, the recent amendment 10 is from our perspective a major step forward. Low frequent registration of GPS data is considered beneficial when preventing fraud. From our perspective, these and other further developments should also be assessed taken into account their cost and benefits of these modifications.

3. PRINCIPLES AND SCOPE

3.1. Scope of the regulation

Question 7 - In case a vehicle is only occasionally used in the scope of Regulation (EC) No 561/2006, for example when exceeding from time to time the radius set in some exceptions, should it be possible to use different means of recording activities?

From our perspective further study regarding administrative burden, road safety etc should make clear if a change of the scope is beneficial. It should be clear which legislation applies to this group.

An improved definition and application of driving out of scope could reduce uncertainties, reduce the administrative burden but should not lead to a reduction of the road safety nor influencing the level playing field. This is also the case with regard to an improved description and definition of the exceptions.

The use of different means of registration is not likely to be acceptable.

3.2. Compatibility and interoperability

Three options can be envisaged:

Option 1: No new generation of recording equipment should be introduced; make full interoperability with the current system of digital tachographs a strict requirement for all future developments.

Option 2: Foresee a new generation of recording equipment, but make sure that at least driver cards (or other parts of the equipment) can be used with the current generation of digital tachographs and the new generation of recording equipment (backwards compatibility).

Option 3: Foresee a new generation of recording equipment without any requirement on the compatibility.

Question 8 - Which option do you prefer? In case you prefer option 2: What are the most important issues for compatibility between a new generation of tachographs and the current digital tachograph, and what other parts of the equipment, apart from driver cards, should be compatible in your view?

From our perspective the transport sector should indicate their preference taking into account cost, benefits and administrative burden of the new or renewed system. Retrofit should be possible taking into account a sufficient long but fixed transitional

period. Under these circumstances, option 3 could be favourable in terms of legal certainty, operational management and industrial development strategy.

4. TYPE APPROVAL

4.1. Introduction of equipment based on new specifications

Question 9 - Should the legislation specify how new equipment has to be introduced in the field? Should a retrofit be possible, mandatory or take place in case of replacement of defective equipment? What are the essential steps for the introduction of new equipment? Should type approval for tachographs fall under the general type approval scheme for vehicles?

From our perspective the introduction of new equipment should be such that retrofit without extra or with limited costs is possible. Within this framework a cost benefit analyses and a view on administrative burden should be executed. As indicated earlier an inclusion in the complete on board unit and motor management system should be an option.

Question 10 - Should it be possible to carry out field tests before type approval is requested, while maintaining the same security standards? How should field test be limited (geographically, number of equipments, duration of the field test, etc.)?

Field testing with prototypes should be possible. Also exempted vehicles could be used, but this should not influence the level playing field and / or road safety.

4.2. Equipment in relation with the tachograph where no type approval is foreseen

The following options could be envisaged:

Option 1: Do not change the current situation

Option 2: Optional standardisation of this equipment through technical bodies

Option 3: Community legislation

Question 11 - Which option do you prefer and if you prefer option 2 or 3, for which parts: seals, downloading equipment, control equipment, calibration tools, etc.?

From our perspective there is no need for detailed legislation: when regulation appears to be necessary after a cost benefit analyses, we are in favour of goal-based regulation to satisfy minimum requirements and standards.

For control purposes the seals should be regulated and registered with a view on improving the quality of the stored data and quality of enforcement (See also question 14). Regarding the seals it is noticed that there is a difference between the text of Annex I and IB: Annex I provides explicit where and how seals have to be applied compulsory. National and international enforcement practice identify that the interpretation of the total description of seals is different. Enforcers and workshops have also different opinions and therefore different applications.

The text of Annex Ibis clear, but does not identify which connections needs to be sealed and how.

The seals used in practice are not effective enough and that the sealing process should be improved, other mechanical seals must be prescribed and more sealing-points must be determined. Annex 1B should amended with a view on improving of this part of the whole digital tachograph system. Issues that could be included are:

- (a) Description of all connections, which have to be sealed, and how the sealing has to be done*
 - 1. Connection between cable and motion sensor*
 - 2. Connection between cable and gearbox*
 - 3. Connection between cable and the rear of the tachograph*
 - 4. All other connections (specially in the cable)*
- (b) Description of the actual state and/or composition of seals including the introduction of a unique seal number. This data should be accessible on line.*
- (c) Disconnection of seals should lead to fault codes (e.g. on the vehicle unit) and should prevent undetectable alterations or data loss.*

The existing certified technical bodies should also be in a position to propose improvements. However it should be clear which are the in- and output specifications. The manufacturers should prove that their products are in line with the requirements. The use of open source software is preferred. In other cases calibration and certification of the systems should be required.

4.3. Adaptation to technical progress

The following options could be envisaged:

Option 1: Commission continues to update the technical specifications of the equipment through comitology

Option 2: The Regulation sets essential requirements for the equipment and a normative or technical body (e.g. CEN, CENELEC) is empowered to take care of the detailed technical specifications

Option 3: The Regulation sets the basic principles for the equipment and manufacturers decide on detailed technical specifications

Question 12 - Is the current way of updating the specifications on the tachograph satisfying? Who should be responsible for the updating of the technical requirements? What is your preferred option?

The actual flexibility is reduced and it takes a substantial effort to prepare these modifications. Updating the technical specifications could be prepared by an agreed technical body in cooperation and consultation of the experts of the Contracting Parties.

It is indicated that some form of goal-based regulation (describing in and output) is preferred above prescriptive regulations (describing the procedures in detail). For practical reasons it should be clear that the (secured) data and read only by an

agreed format, they could be downloaded and stored. Elaboration could be done elsewhere.

Interpretation and calculation should preferably not take place in the vehicle unit.

5. INSTALLATION AND INSPECTION

Question 13 - Should the trustworthiness of workshops be improved? If so, how? How can conflicts of interest be avoided for workshops that are living from delivering services to individual clients but play at the same time an important role in the security of the recording equipment?

The EU recommendation of the 23rd of January 2009 provides a basis for enforcement best practices at roadside checks and by authorised workshops. After implementation and reporting this list of best practices should be amended and updated from time to time with respect to the experiences gained.

If conflicts of interest do occur, on a national or international basis the necessary preventive measures should be established.

To improve the trustworthiness of workshop and when relevant to avoid conflicts of interest several measures could be taken. For instance:

- Ø Unannounced inspections of vehicles right after calibration. Reward good work with lower number of inspections; punish poor work by inspecting more vehicles or withdraw the approval at the end if necessary.*
- Ø To increase the education level of the technician, to hand him the latest knowledge of tachographs and the most occurring frauds, an obligatory refresher course should be attended on a periodical basis.*
- Ø The periodical audit of workshops could be established on a maximum of 12 months or as many as needed. To be decided by the approving authority.*

6. USE OF EQUIPMENT

6.1. Automatic and manual recording of information

Question 14 - What kind of data should be entered manually by the driver? What kind of information should be recorded automatically by the recording equipment? Is it appropriate to record more precisely the location (via GPS or GNSS for example)?

In principle all vehicle and driving related issues should be recorded by the digital tachograph. There should remain an option for introducing manually other information that not automatically can be registered by a tachograph such as illness, annual leave, driving out of scope, etc. This will lead to a better registration and reduces the administrative burden.

Earlier it is indicated that inclusion of the digital tachograph in an on board unit should not be excluded. When relevant secured data such as for example GPS data could be introduced via that route into the digital tachograph simplifying also the work of the driver and improving the security of stored data and the quality of the enforcement.

6.2. Uniqueness of the driver card

Question 15 - Should the Regulation explicitly foresee the use of electronic data exchange on cards that are issued between card issuing authorities?

The regulation foresees data exchange between the member states (and AETR contracting parties). This should be done in a simple way without delaying card issuing.

If during roadside check information is requested this should be done without delaying the check. The way it is done is not relevant: the uptime of the system should be such that it does not delay the control.

6.3. Warnings

Question 16 - Should the Regulation explicitly foresee warnings for the driver in order to enhance compliance with the legislation on driving times and rest periods? Should it be up to manufacturers' choice to offer such warnings as an optional tool, including additional warnings for other aspects than the continuous driving time?

From our perspective it is the transport sector that asks for the (optional) signals and warnings. This could be helpful for the driver. However the legal status of these warnings should be well determined.

7. OTHER QUESTIONS

Question 17 - Do you have any other comments or suggestions which you consider should be taken into account during the revision of the European legislation on recording equipment?

A reduction of the administrative burden and costs related to an increased benefit and efficiency is in all cases welcomed. Furthermore the following issues could be raised:

- Review of certain tolerances now 4%.
- Time shift of 20 minutes: this could be reduced
- Due to increased traffic intensity an enlarged flexibility for drivers and undertakings not reducing the resting time. The resting time periods are considered essential for road safety.
- EU wide harmonized and simplified application of the regulation
- An exchange of ideas on the (necessary) role of legislation and government interference in road transport issues such as safety, privacy and security.

Question 18 - Would you like to propose other measures to make the recording equipment more user-friendly and to improve the reliability of controls?

See before.