

European Commission
Directorate General for Energy and Transport
Directorate E – Inland Transport
Rue du Mot 28
1040 Brussels

1 March 2010

Ref: COM 015 2010

Dear Sir/Madam,

Subject: Public consultation on the digital tachograph

Please find thereafter our answer to your consultation on the digital tachograph.

We remain at your disposal for any further information you may require.

Yours sincerely,



José PISCITELLI

President, CORTE

Ref: COM 015 2010

PUBLIC CONSULTATION ON THE DIGITAL TACHOGRAPH

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?

We consider that there is a hierarchy between the technical requirements that may require harmonization among the various equipments, whilst some others would not.

1. Drivers' activities should be recorded on the same way by all digital tachographs. It would be for example abnormal that some tachographs record rest where some others would record other work. Even so this looks like going without saying, the way tachograph manufacturers have in the past used requirement 003 of Annex 1B to Regulation (EEC) n° 3821/85¹ led to some discrepancies in this respect.
2. As far as possible, tachographs' outputs, such as printouts, should be also harmonized. If not control officers throughout Europe may have huge problems understanding drivers' activities when printed out, depending on whether they come from a tachograph A, B, C or D, and sometimes depending on the versions of each tachograph (A1, B1, ...).

This being said, tachograph manufacturers, even so printouts may be harmonized, should nevertheless be authorized to offer some optional printouts aimed at easing drivers' and transport operators' activities.

3. The HMI part of the tachograph should be let up to tachograph manufacturers to define, since this is a part of the system which can regularly be improved for the benefit of the end users.

¹ All references to Annex 1B to Regulation (EEC) n° 3821/85 refer to the Annex 1B as laid down before its last amendments, not yet implemented by tachograph manufacturers.

So, to conclude on this question, we consider that legislation should focus on essential requirements (see points 1 and 2 above) and give manufacturers more freedom to develop solutions and improve the recording equipment (see point 3 above).

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?

We do not consider necessary to regulate the integration of the digital tachograph into an open in-vehicle platform.

We consider that the technical requirements of the next generation of digital tachographs should be written in such a way that this would be technically feasible, but without being necessarily mandatory. This process should be industry driven.

Concerning the tracking and tracing function, we draw your attention on the fact that it is somewhere already made legally possible by Article 15. 5 a. second paragraph of Regulation (EEC) n° 3821/85.

The political decision to link the digital tachograph to a "satellite tracking system" has already been taken but has not yet been implemented through the CATP, which in our view, has a clear mandate in this respect.

CORTE would favor the implementation of this functionality on a mandatory basis with some clear restrictions considering its use.

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

Remote download is already made possible, through requirement 150 of Annex 1B to Regulation (EEC) n° 3821/85. It is a facility offered to transport companies wanting to get access to their data on a quickest way than through traditional data download.

But remote data download may be considered as disproportionate for all the transport companies operating small fleet and for all one-man-on truck companies, which do represent a large part of the transport companies operating in Europe today.

As a matter of principle, regulation should be needed only when it can improve the way transport companies and drivers may comply with the rules. Via the compliance angle, one may say that data are downloaded for company checks purposes only (fleet and freight management being peripheric

issues to the social legislation). Therefore, the fact that they may be downloaded periodically only is largely sufficient for control officers to check drivers and transport companies activities against Regulations (EC) n° 561/2006 and (EEC) n° 3821/85 as well as against the AETR and Directive 2002/15/EC.

Would transport companies decide to remotely download their data, they could do it to improve their efficiency towards their customers, without this to become a legal obligation.

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

There have been some problems, but mainly due to the facts that:

1. digital tachographs were not correctly handled by transport companies, which thought they were facing technical problems when they very often did not understand how to use their recording equipments;
2. some of the downloading equipments were not performing enough, leading to long data download times. Downloading equipments being neither covered by the legislation nor standardized, nothing forbids some of them being of poor quality to be put on the market.
3. Some transport companies implemented irregular data download periodicity, with as a consequence that they had sometimes to download a lot of data in one shot when deciding to do so, leading again, to long data download times.
4. And last but certainly not least, most of the problems were due to the fact that transport companies did not select the files they had to download to show their compliance with the Drivers' Hours' rules. Most of them downloaded the detailed speed data file, which is not requested by control officers during company checks and which, alone, is heavier and longer to download than all the other files put together.

For some months, (transport companies having been trained/informed in the meantime) they do not face this kind of problems anymore. During the same period of time, tachograph manufacturers have also released some more performing digital tachographs so that, today, data download cannot really be considered as a major problem anymore.

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?

Controls could be made much more efficient if three main conditions could be met:

1. the digital tachograph was able to enlighten for control officers as well as for drivers (who would then get warnings), non compliance to the Drivers' Hours' rules. For this to be possible, the Drivers' Hours' rules should be interpreted on the same way throughout Europe, which is absolutely not the case for the time being. The consequence is that the digital tachograph can only record facts but cannot interpret them (with the exception of continuous driving time).
2. Any manipulation attempt to the digital tachograph could be detected and recorded. Would this be the case, control officers could then rely upon the digital tachograph data and not have to always start from the assumption that the data to be checked may have been manipulated.
3. If driving without a driver's identification (which is reduced today to driving without a driver card) could be made impossible. The digital tachograph system was supposed to be digital equipment. But driving without a driver card on the one hand and the possibility to add some other sources of information such as leave letters and paper discs on the other hand makes digital tachograph data very often insufficient for a proper check of drivers' activities.

Controlling moving vehicles might be an interesting technical solution to investigate but it would not, fundamentally, solve at least two out of the three main problems mentioned above (the 1 and 3).

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?

The security of the digital tachograph should not be limited to the capacity of drivers to manipulate it. The digital tachograph, as a system, can be defeated by:

- driving without driver cards and have anonymous data to produce to control officers;
- driving with a digital tachograph improperly calibrated and get partly fake recorded data;
- destroy digital tachographs and get certificates of undownloadability from approved workshops to cover the loss of weeks/months of data;
- poor audits of approved workshops;
- poor enforcement of the Drivers' Hours' rules;
- poor implementation of the system at AETR level;
- etc.

The security of the recording equipment can therefore be improved as such but isolated from other efforts, it will be insufficient to ensure the reliability and accuracy of the overall system.

This being said, there should indeed be other sources of speed made available and Galileo seems to be, technically and politically speaking, the best answer in this respect.

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?

Would these vehicles suffer from having to use digital tachographs, Article 3 or 13 of Regulation (EC) n° 561/2006 should be amended accordingly and an exemption granted to them.

As long as such an exemption is not adopted by the Council and the European Parliament, those operating these vehicles will have to comply with the rules and therefore use a (digital) tachograph.

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?

Among the three solutions proposed, and considering the wording used in this questionnaire, option 2 is the preferred one for CORTE.

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?

We are of the view that the Commission cannot make the economy of proposing legislation dealing with the introduction on the market of new generations of digital tachographs. Either by adopting once for ever an end of series provision, commonly applied in the automobile and automotive sector, or by adopting case by case solutions.

As long as interoperability between tachographs and cards is ensured, we do not see why it would be necessary to “force” the introduction of a new generation of tachographs/cards even so it may improve – say – the security of the system.

If interoperability is not ensured (see question 8 above), then we would opt for a progressive replacement of digital tachographs/cards whenever a breakdown/defectiveness occurs.

Concerning the general type approval scheme for vehicles, such a solution would have to be investigated in-depth because the digital tachograph legislation is based on a very specific type approval scheme (with the issuing of three certificates, including the interoperability one) which may not be compatible with the general type approval scheme for vehicles.

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.)?

Vehicle and tachograph manufacturers should be the ones answering this question.

But from the end users prospective, it appears unrealistic and irresponsible to continue putting in the field a widespread system such as the digital tachograph without ensuring it has been properly, completely and deeply tested in the field.

All stakeholders should not lose from sight that road safety is also at stake when talking about field tests.

There would be no rationale to limit the tests geographically speaking as long as the vehicles concerned are well identified.

The tests should be as long as necessary to ensure that the system to be introduced in the field complies with the technical requirements laid down in Regulation (EEC) n° 3821/85 and do not represent a road safety hazard.

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.?

We would opt for option 1 for control equipments, as long as Regulation (EC) n° 561/2006 continues being diversely interpreted throughout Europe.

We would prefer option 2 for downloading and calibration equipments.

We would opt for community legislation for the seals.

BUT, we do recommend the legislation to make clear that calibration equipments complying with the EU legislation cannot be rejected by some Member States under the pretext that they may have adopted some special national requirements. This is the current situation which is, in our view, problematic for the digital tachograph system and not compliant with the EU Internal Market rules.

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?

We do consider that the current situation is unsatisfactory for various reasons.

The solution consists, in our view, in a mix of options 2 and 3. Some parts of the technical requirements can be subject to standardization whilst some others may be let free to tachograph manufacturers to make evolving, as long as they comply with the high level requirements which may be laid down in the EU legislation.

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 trustworthiness of workshops could be improved:

- by fixing minimum requirements in the EU legislation, which does not contain any for the time being;
- by fixing minimum requirements on Member States concerning the audit of the workshops they approved and a periodicity for conducting them;
- by indeed, avoiding conflicts of interests between transport companies and approved workshops since it is odd to consider that in some Member States, some transport companies can calibrate their own equipments, check their own vehicles and even carry their own periodic inspections.

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 this regards, CORTE is satisfied with the existing situation, at the exception of the locations which should indeed be recorded automatically.

See our answer to question 2.

We would nevertheless recommend investigating the possibility for drivers, in case they would have to drive without a driver card, to be given the technical possibility to manually enter into the VU memory their identity/an identifier, so as to discourage them to fraud the system by driving without driver cards.

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

Yes.

As long as this is not the case, we are not sure that Denmark – which is the only EU country out of the TACHOnet system for the time being – will ever connect.

We are not sure either that all those connected today will always up-date their system, would the TACHOnet specifications evolve, if the electronic exchange of data is not made mandatory.

But we would not support a solution consisting in making TACHOnet the only electronic tool for CIAs to exchange data.

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?

These warnings are not possible to implement today due to the discrepancies between the interpretations made by Member States of the Drivers' Hours' rules.

It is therefore strongly advisable to let these warnings up to manufacturers to offer to their customers, would they wish to do so.

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?

Card issuing matters should have been addressed too. Cards are one of the weakest points of the system:

- firstly because quite a large number of non EU-AETR countries but also of third countries having to use digital tachographs (in compliance with Article 2 and 3 of the AETR) will have huge difficulties (to not say more) to issue cards to their drivers, leading to situations where their drivers will be in constant breach of the rules;

- secondly because driving without a driver card and therefore recording anonymous data is legal in a quite large number of cases, which considerably decrease the efficiency of enforcement throughout Europe;
- thirdly because driving without a driver card may rapidly become the rule more than the exception for non EU-AETR drivers if CIAs from the EU Member States and CIAs from non EU-Member States cannot electronically exchange data.

We do therefore consider as necessary to urgently address:

- ways of making cards available in countries where they are necessary but cannot be issued (by eventually reconsider the concept of normal residence upon which the issuing of cards is based today);
- ways for EU and non-EU CIAs to exchange cards data;
- ways for drivers to enter their identity/an identifier into the VU memory in case their card would be lost, stolen or defective (see our answer to question 14).

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 our answer to question 5.

To use other terms, we think that the digital tachograph system, and consequently control officers and enforcement, would highly benefit from:

- a tachograph which would offer more freight and fleet management services and/or which would be more open to other applications, in which case the temptation to manipulate it will considerably decrease;
- a driver card which could also have other purposes and/or cover some other applications, such as being/becoming the electronic driving license too that drivers may then be much less tempted to lose.