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Ms Violeta BULC
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Subject: Commission Delegated Regulation of 18 December 2014 supplementing Directive 2010/40/EU of the European Parliament and of the Council with regard to the provision of EU-wide real-time traffic information services

Dear Ms Bulc,

I am writing in response to the consultation from the Commission, pursuant to Article 28(2) of Regulation (EC) No 45/2001, on the Commission Delegated Regulation of 18 December 2014 supplementing Directive 2010/40/EU of the European Parliament and of the Council with regard to the provision of EU-wide real-time traffic information services¹ ('the Delegated Regulation').

Article 3 of Directive 2010/40/EU on the legal framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other modes of transport² ("the ITS Directive") identified six priority actions for the adoption of specifications by the Commission. Making use of the powers vested on it in Article 7 of the ITS Directive, the Commission adopted on 18 December 2014 the Delegated Regulation for the priority action (b) concerning "the provision of EU-wide real-time traffic information services".

We welcome that we have been consulted by the Commission at an earlier stage and that we have been able to provide informal comments as to the compliance of the draft Delegated Regulation with data protection rules before its adoption. We note that a reference to such consultation is included in recital 23. We also welcome the Delegated Regulation as amended and in particular the aspects described below.

¹ C (2014) 9672 final, available on the European Commission website at: http://ec.europa.eu/transport/themes/its/news/2014-12-18-rtti_en.htm.

² OJ L 207, 6 August 2010, p. 1.

As regards the processing of personal data in the context of the provision of EU-wide real time traffic information services, we take positively note of the reference, in recital 9, to applicable data protection law as well as to the principles of purpose limitation and data minimisation.

We note that recital 9 provides that personal data should, where possible, be irreversibly anonymised, which is in line with Article 10(3) of the ITS Directive. We appreciate that it insists on the irreversibility of the anonymisation, whose importance we underlined in our additional comments on the data protection reform package³.

We take note of the language about information of end users in cases of collection of any kind of data (including geo-location) from individuals or from devices used by individuals, who should be informed about the collection of data, the arrangements for data collection and potential tracking, and the periods for which the data are kept (recital 10). We also welcome the requirement for 'data collectors' to deploy appropriate technical measures to ensure anonymity of the data received from end users, which is in line with Article 9 of Directive 2002/58/EC (requiring that location data may only be processed when they are made anonymous, or with the consent of the users and subscribers).

We welcome that the principle of data minimisation has been taken into account in the text of the Delegated Regulation. Articles 8 to 10 and the Annex to the Delegated Regulation set forth an exhaustive list of the exact data to be provided and/or updated, thus ensuring that only the data necessary for the purpose of providing the real-time traffic information services are processed. This is in line with Article 6(1)(c) of Directive 95/46/EC, which requires that data should be adequate, relevant and not excessive in relation to the purposes for which they are collected and/or further processed.

We also welcome the reference to data quality in recital 13 and that, pursuant to Article 7, the road authorities, road operators and service providers are responsible for the regular update of all data and the timely correction of any inaccuracies in their data either detected by them or signalled to them by any user and end users. We note that Articles 8 to 10 of the Delegated Regulation precise further the process of updating static road data, dynamic road status data and traffic data. Altogether these rules help ensure the quality of the data and are in line with Article 6(1)(d) of Directive 95/46/EC, which requires that data should be accurate and, where necessary, kept up to date.

We share the point of view, as expressed in recital 18, that Member States and ITS stakeholders should further cooperate to agree on common definitions of data quality and that further work is needed in order to establish associated methods of quality measurement and monitoring of all types of data.

Finally, we welcome that recital 8 provides that the specifications set forth in the Delegated Regulation apply regardless of the source of the data. It is very important from a data protection perspective that data receive the same protection regardless of the modality and source of collection.

³ See EDPS additional comments on the data protection reform package, 15 March 2013, pages 1-2, available on the EDPS website at: https://secure.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Consultation/Comments/2013/13-03-15_Comments_dp_package_EN.pdf.

In conclusion, the EDPS has **no further comments** on the text of the Delegated Regulation itself.

In view of the legislative procedure applicable to delegated acts, we have sent this letter to the European Parliament and to the Council as well.

Yours sincerely,

(signed)

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Cc: Mr Andrus ANSIP, Vice-President, European Commission
Mr João AGUIAR MACHADO, Director General, DG MOVE
Ms Paraskevi MICHOU, Acting Director General, DG JUST
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