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EDPS Opinion on Commission Action Plan and Proposal for a Directive on Intelligent Transport Systems

Joint eSecurity WG / Article 29 WG meeting on the privacy of location oriented services
October 14th, 2009



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Context of the EDPS Opinion

- Commission Action Plan on ITS + Proposal for a Directive put forward on 16.12.08
- EDPS was formally consulted by Commission on its ITS plan
- EDPS Opinion (22.07.09) = analysis of the legal framework proposed by the Commission concerning ITS



Proposal for a Directive on ITS

- **Goal** : define a framework to facilitate the provision of harmonised cross-border ITS services, notably for traffic and travel information and traffic management
- **Main measures:**
 - Obligation for MS to adopt measures to facilitate data exchanges between users, public authorities, ITS service providers and relevant stakeholders
 - Creation of a Committee that will define the technical specifications for the design of ITS applications and systems in 4 priority areas (Comitology procedure)
- Technically focused without yet defining any concrete technical measures, which will be defined at a later stage
- Large scope: will apply to many types of ITS to be used for a variety of purposes

Privacy & Data protection challenges for deployment of ITS

- ITS is a (personal) data-intensive area
- Processing of personal data through ITS must comply with data protection rules
- Risk of developing services that are intrusive to privacy of individuals (e.g. use of location technologies for constant tracking and recording of individuals' location & behaviour, profile of drivers, misuse of data, etc)



DP issues raised by ITS (I)

- **Roles of ITS actors**
 - Who is the data controller, responsible for compliance with data protection rules?
- **On what legal basis will ITS services be provided?**
 - Mandatory basis / Consent ?
 - Are there cases where ITS device integrated in vehicle will be automatically activated by default?
- **Anonymous data?**
 - Support the use of anonymous/aggregated data insofar (and as soon) as possible
 - Strict notion of anonymity under DP law. In many cases, data can be linked to identifiable person and will remain personal data.



DP issues raised by ITS (II)

- **For what purposes a data processing occurs?**
 - Proportionality of the data processing
- **Interoperability of systems**
 - May conflict with purpose limitation principle: personal data should be processed for specified purposes and not further processed in a way incompatible with these purposes
- **Use of location technologies**
 - Need to ensure that the data processing to be performed through use of location technologies is proportionate and not intrusive to privacy of individuals.



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EDPS recommendations

- “Privacy by design” from an early stage of the design of applications and systems
- Data minimisation
- Data security
 - Privacy and data protection impact assessments
 - Definition of Best Available Techniques for ITS
- Develop pan-European contracts for the provision of ITS services that offer same DP safeguards across the EU



More information:

www.edps.europa.eu
edps@edps.europa.eu

Postal address:
Rue Wiertz 60 - MON 63
B-1047 Brussels