

**Communication from the Government of the Federal Republic of Germany to the
European Commission of 27 June 2007**

Subject: eSafety Conference in Berlin on 5/6 June 2007

The Government of the Federal Republic of Germany informs the European Commission as follows:

The German EU Council Presidency has addressed the European Commission's eSafety initiative and organised a conference on this initiative on 5/6 June 2007 together with high-level representatives from the Commission's Directorates-General involved, from the Member States, national and European associations, the automotive and supplier industry, monitoring agencies, automobile associations and research institutions. Against the background of the Transport White Paper, development prospects of intelligent mobility were discussed. Being of particular importance, the thematic blocks "Real Time Traffic Information (RTTI)/Communication", "Human Machine Interaction (HMI)" and "Advanced Driver Assistance Systems and Regulations" were given special attention during the discussions.

The eSafety Conference adopted conclusions regarding these thematic blocks. They are based on the results obtained at European level by the working groups, on the expert presentations from the representatives of various Member States and European institutions and on the discussion results. The conclusions of the Conference are attached to this Communication.

The Federal Government asks the Commission to address these conclusions and take them into account when taking further action for a wider application of eSafety systems and services.

Conclusions of the Conference on the European Commission's eSafety initiative during the German EU Council Presidency on 5/6 June 2007

I. On the key issue of Real Time Traffic Information (RTTI), Vehicle-to-Vehicle and Vehicle-to-Infrastructure Communication (C2C and C2I)

Against the background of the European objective of halving the number of road fatalities by 2010, the application of ITS technologies is becoming increasingly important. As a result of the measures identified by the eSafety initiative as having priority and being feasible in the near future, traffic information is to be singled out. Even though many European countries have already done preliminary work here – in some cases quite substantial – and information systems are already in operation, albeit in different shapes and sizes, it is important to identify ways and recommendations for action for future improvements.

The Conference on eSafety, which was held within the framework of the German Council Presidency on 5/6 June 2007, addressed the issue of real time traffic information (RTTI) services and analyzed it from the angles of availability of services, user requirements, technological development, universal coverage and accessibility. The following conclusions were reached:

1. The Conference agreed that traffic information is highly relevant to road safety. Both the users and the players involved in the information chain are calling for further improvements in terms of quality and coverage in order to meet the objectives of improving road safety and to assist the driver in performing his driving task. Realistic and feasible quality standards should be developed jointly, with the involvement of all stakeholders.
2. The Conference notes that traffic information services should cover not only the primary networks (e.g. motorways) but also sizeable sections of the secondary networks. To this end, "strategic networks" are to be defined. Here, it is quite conceivable that different quality levels could be applied to the individual network sections.

3. The increasing number of traffic messages makes it necessary to transmit traffic information digitally so that it can be automatically processed in an appropriate manner, both during the generation and management of the messages and by the users' receivers. For this purpose, the "Radio Data System Traffic Message Channel (RDS-TMC)" has been developed, which is already in operation in numerous European countries, albeit with varying degrees of intensity.

If the secondary networks are to be included, it might become necessary to change over from analogue radio channels to digital broadcast channels (e.g. DAB, DRM). To ensure universal coverage in conurbations, provision will have to be made for appropriate transmission capacity, Joint implementation strategies should be developed on a Europe-wide basis to facilitate access to this information, which is not based on a specific language. The aim is to create relatively uniform information services within the European Union.

4. In Europe, there are both freely accessible "public" traffic information services and commercial information services, which users can access by paying a fee. The Conference notes that, from a transport policy perspective, access to safety-related traffic information should be possible worldwide without users having to pay additional costs. Some countries have already categorized safety-related information by way of example. The minimum scope of safety-related traffic information should also be defined on a Europe-wide basis. This will not rule out the possibility of individual countries going beyond this scope when providing freely accessible information.
5. Commercial information services have their place alongside freely available traffic information services. The services they offer may go significantly beyond those offered by public information services and cater to the individual needs of customers.
6. The Conference believes that Member States should, in accordance with the principle of subsidiarity, also make the necessary rules and arrangements for the free provision of safety-related traffic information within the framework of public-private partnerships (PPPs).

7. The newly developed systems using Car2Car communication and Car2Infrastructure communication are believed to offer great scope for improving road safety. Accidents are to be prevented by interlinking information from vehicles in the vicinity, and possibly also with roadside infrastructure, any by providing timely information on risks. For this information, which is highly relevant to safety, it is necessary to provide reliable and globally acceptable frequency bands that are not subject to interference from other services. The Conference believes that Member States and the European Union promote and support the efforts for the allocation of reliable Car2 Car and Car2Infrastructure frequencies.

8. To ensure that traffic information provides great coverage, it is necessary to open up new information channels. The inclusion of vehicle-generated data (floating car data, floating phone data, etc.), data provided by congestion reporters, emergency call systems, etc. makes it necessary to form public private partnerships, within which it must ensured that this improved data basis can be used by both public and commercial service providers for collective traffic management and individual services respectively. Services are to be set up and provided on a long term basis by using existing and future telecommunications facilities.

II. On the key issue of Human-Machine_interaction (“HMI”) as discussed at the eSafety Conference

Against the background of the “Commission recommendation of 22 December 2006 on safe and efficient in-vehicle information and communications systems: update of the European Statement of Principle on human machine interface” (K(2006) 7125 final version), that was transmitted to the European Parliament and Council, the eSafety Conference, which was held in Berlin on 5/6 June 2007, addressed the implementation and updating of this EU recommendation and reached the following conclusions:

1. The Conference noted that there were several ways for ensuring that the update of the European Statement of Principles is complied with and implemented. It stated that voluntary self-commitments by the addressees of this EU recommendation (stakeholders) were, in principle, the preferred option among other possibilities (e.g. regulations, consumer protection requirements).
2. The Conference also noted that special attention had to be paid to issues relating to the safe integration and use of portable systems (so-called nomadic devices) when implementing the update of the European Statement of Principles.
3. The Conference pointed out that, in view of road safety and given the need for a level playing field, it is especially important to achieve equal and balanced participation by all stakeholders in the voluntary self-commitments to comply with the update of the European Statement of Principles.
4. The principles contained in the update of the European Statement of Principles which address issues relating to the prevention of misuse and manipulation are not sufficient to ensure this on a sustained basis. In addition to creating new technical standards, independent from the European Statement of Principles, the training of drivers and an appropriate surveillance must be taken into account. The Conference emphasized the need for measures to ensure that there is no misuse or manipulation and expressly supported the activities of the European Commission in the field of eSafety.

5. The Conference agreed that, against the background of continuing developments in the field of science and technology it is desirable to gain experience from the present update of this recommendation before the European Statement of Principles is updated again. The Conference deems it necessary to entrust the working group with this task, that has so far dealt with the HMI issue at European level.

6. The Conference recommends that, if the European Statement of Principles is updated again, the issue of its scope should be raised again and addressed in depth, in order to take systems into account that have so far been excluded, if this appears appropriate on the basis of the state of the art.

III. On the key issue Driver Assistance Systems (DAS) and the Law as discussed at the eSafety Conference

Against the background of the increasing significance of advanced driver assistance systems (DAS) for road traffic, their potential for improving road safety, the crucial importance of user take-up for market penetration, the investment already made in the development of DAS and the need to ensure effective cross-border transport and uniform conditions of market access in the Member States of the European Union, the eSafety Conference held in Berlin on 5/6 June 2007 addressed the regulatory framework for the implementation of DAS and reached the following conclusions:

1. The Conference notes that the introduction of DAS that intervene in driving manoeuvres or that influence operation of the vehicle via the driver's behaviour raises numerous legal issues with regard to the responsibility of the various stakeholders (manufacturers, road users, infrastructure managers). National traffic law systems in Europe take as their starting point – based, among other things, on the principles of the Convention on Road Traffic (especially Articles 8 and 13) and the technology available in the past – that responsibility for driving lies entirely with the driver and is accompanied by the liability of the vehicle keeper. Clarity among the stakeholders regarding the regulatory framework is a requirement for successful commercialization.
2. The Conference notes that the legal systems of the Member States of the European Union cover without difficulty those DAS that do not question the driver's full control over his vehicle, These are systems that optimize functions initiated by the driver (e.g. ABS), systems that only provide information or recommendations (e.g. speed alert) or DAS that can be overridden or adjusted (e.g. adaptive cruise control).
3. The Conference also notes that the legal systems of the Member States also cover without difficulty those non-overridable DAS whose intervention has the same effect as customary vehicle performance limits (e.g. HGV speed limiters) or which intervene in situations in which the driver might not be able to properly perform his driving task in a timely manner and the intervention is in keeping with the wish of the driver (e.g. ESP, automatic emergency braking).

4. The Conference therefore recommends that, when DAS are being developed, care be taken to ensure that the driver's control of his vehicle is not impaired. In general, there will then be no special liability risks. The principles developed in the RESPONSE 3 research project could be taken as a basis in order to make the implementation of this requirement in the development of DAS manageable. They could thus help to minimize technological development risks, thereby de facto reducing liability risks. Observation of the functional performance of intervening DAS in actual traffic – for instance within the framework of regular vehicle inspections or product observation – can make a further de facto contribution to minimizing liability risks and to take-up of the systems by detecting and, if necessary, correcting errors below the systemic performance limits. In addition, clarification of the scope of the principle of vehicle controllability in the Convention on Road Traffic could support legal clarity and further help to ensure comprehensive cross-border road traffic.
5. The Conference is opposed to DAS that intervene in the driving of the vehicle against the will of the driver as long as he can perform his driving task. Such DAS would have legal implications that cannot be predicted at present. Should such DAS still be considered, the regulatory framework would have to be fashioned in such a way that it provided legal certainty. This also applies if systems are to be made possible that trigger specific driving functions beyond the information function on a telematics basis (by communication with the vehicle).
6. The Conference submits that, when introducing any DAS, care must be taken, by means of appropriate precautions during its development, to ensure that it is protected against improper use, abuse and manipulation. The efforts being undertaken by the European Commission, which has now also addressed the issue of eSecurity as part of its eSafety initiative, are welcomed.
7. The Conference is in favour of taking into account, alongside passive safety, the impacts of DAS that promote road safety and the compliance with the limit of controllability of the vehicle by the driver when carrying out an objective safety assessment of motor vehicles, which should be based on accident data.