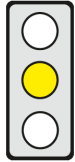


KEY ISSUES

Objective of the Regulation: Standard EU provisions on the electronic transmission of regulatory freight transport information will promote digitalisation in the freight transport sector.

Affected parties: Transport companies and information technology (IT) developers, authorities



Pro: The proposed common EU provisions on electronic transmission of regulatory freight transport information will ensure major gains in efficiency, thereby strengthening the internal market.

Contra: (1) When establishing technical specifications, sufficient consideration should be given to existing IT solutions so that previous investment can still be utilised to the greatest possible extent.

(2) In order to guarantee interoperability, technical specifications that apply across transport modes are more suitable than those that are mode-specific.

The most important passages in the text are indicated by a line in the margin.

CONTENT

Title

Proposal COM(2018) 279 of 17 May 2018 for a **Regulation** of the European Parliament and of the Council **on electronic freight transport information**

Brief Summary

► Context and objectives

- Fully electronic exchange of information and data only takes place for 1% of cross-border shipments in the EU. Otherwise, paper-based documents are still used “at one stage or another” [p. 1].
- So far, the evidence required to show lawful carriage of goods within the EU (“freight transport information”) is seldom accepted in electronic format by the authorities.
- This is due to [p. 2]
 - inconsistent requirements across the EU on the acceptance of electronic freight transport information by authorities;
 - a multitude of non-interoperable systems for the electronic transmission of data to authorities.
- The proposed Regulation will mean that
 - the electronic transmission of freight transport information to authorities is “facilitated” [Recital 6];
 - the exchange of information between companies will therefore be increasingly digitalised [Recital 3].
- This will
 - increase efficiency in the transport sector and in the internal market [p. 4 et seq.];
 - make paper-based documents superfluous and thus reduce environmentally harmful paper consumption [p.11].

► Subject-matter and scope

- The proposed Regulation establishes [Art. 1 (1)]
 - the conditions under which authorities are required to accept “electronic Freight Transport Information” (eFTI) as proof of the lawful carriage of goods in the EU;
 - how this information is to be made available and processed (“eFTI-services”) on special IT solutions (“eFTI platforms”) – such as “operating systems, operating environments, or databases” [Art. 3 (5)];
 - what requirements apply to external providers of such eFTI-services (“eFTI-service providers”).
- The Regulation applies to “regulatory information” [Art. 3 (1)] in
 - EU legislation on the transport of goods and shipment of waste [Art. 1 (2), sub-para. 1 in conjunction with Annex I Part A] or
 - legislation of Member States corresponding “in whole or in part” to the requirements of EU legislation on the transport of goods and shipment of waste [Art. 1 (2) sub-para. 2 in conjunction with Annex I Part B].
- The Regulation governs [p. 10 and Impact Assessment SWD(2018) 183, p. 37 et seq.]
 - the acceptance of freight transport information in “electronic consignment notes” – such as “e-CMR” for road haulage, “e-CIM” for rail freight, “e-SWB” for transport by sea and inland waterways and “e-AWB” for air freight – and in other accompanying documentation, as proof of compliance with regulatory conditions;
 - but not the extent to which electronic consignment notes constitute a legally valid transport contract – as a substitute for the paper-based version.

► Requirements for companies

- Where companies want to provide authorities with regulatory freight transport information electronically, they must use a certified eFTI platform. They can also engage certified eFTI service providers to do this [Art. 4 (1) sub-para. 1].
- Information in machine-readable form must be made available via an “authenticated and secure connection” to the eFTI platform [Art. 4 (1) sub-para. 2].
- Information in human-readable format must also be made available “on the spot”, on the company’s or authority’s screens [Art. 4 (1) sub-para. 3].
- Companies must provide the authorities with access to a “unique internet address” or other information to uniquely identify the eFTI [Art. 4 (1) sub-para. 2].

► Acceptance by authorities

- Authorities must accept regulatory freight transport information in electronic form if it complies with the Regulation [Art. 5 in conjunction with Art. 4].

► Establishing common standards

- In order for companies to be able to electronically transmit the regulatory freight transport information in the same way in all Member States, the Commission may establish common “specifications” in implementing acts [Art. 7 in conjunction with Art. 14 (2) and Recital 8 in conjunction with Art. 291 TFEU]:
 - to guarantee interoperability
 - a common EU eFTI data set and common data subsets for the individual information requirements and
 - a definition of the relevant data elements;
 - to guarantee the authenticity and integrity of the data
 - common EU procedures and detailed rules on authorities’ access to eFTI platforms and
 - “technical specifications” for information processing which may also be “transport mode-specific” for the relevant mode of transport whether road, rail, water or air.
- The common specifications will be technology-neutral [Recital 9].
- The Commission refrains from imposing common “technical specifications” applicable across transport modes because in the rail, maritime and aviation sectors – by contrast with road haulage – major investment has already been made in IT solutions for the electronic transmission of regulatory freight transport information [Impact Assessment SWD(2018) 183, p. 40].

► Costs of implementing the Regulation and reduction in administrative cost

- By 2040, implementation costs for companies will run to € 4.4 billion [p. 11].
- Of that, [Impact Assessment SWD(2018) 183, p. 46–47]
 - € 4.1 billion is allocated to road haulage – mainly for smart-phones for lorry drivers – ,
 - € 89 million to rail freight services,
 - € 192 million to transport by sea and inland waterways and
 - € 17 million to air freight.
- Companies may save € 20-27 billion in administrative costs by 2040 [SWD(2018) 183, p. 45].

► Conditions for eFTI platforms and eFTI service providers

- eFTI platforms must meet specific “functional requirements” and ensure that [Art. 8]
 - a unique electronic identifying link can be established between the data processed and the physical shipment of the goods concerned, from origin to destination;
 - data can be processed solely on the basis of authorised and authenticated access;
 - the person responsible and the sequencing of all processing operations can be identified;
 - after modification or erasure, the original data element can be reconstructed;
 - data can be stored for an “appropriate” period and protected against corruption and theft.
- eFTI service providers must ensure that on the eFTI platform [Art. 9]
 - data is processed only by authorised users according to “clearly defined processing rights”;
 - data is stored for an appropriate period of time in accordance with the information requirements;
 - authorities have immediate and direct access to the processed regulatory information concerning a freight transport operation as soon as access is given to the eFTI service provider by the company concerned.
- The Commission can adopt detailed provisions to define the requirements applicable to eFTI platforms and eFTI service providers in implementing acts [Art. 8 (2) and Art. 9 (2) in conjunction with Art. 291 TFEU].

► Certification of eFTI platforms and eFTI service providers

- For the certification of eFTI platforms and eFTI service providers, Member States must approve “conformity assessment bodies” pursuant to the Accreditation Regulation [(EC) No. 765/2008] [Art. 10 (1)].

- At the request of an eFTI platform developer, the conformity assessment body has to assess whether the platform complies with the “functional requirements” and issue a “compliance certificate” as proof of certification [Art. 11 (1)].
- The eFTI platform developer must have its certification reassessed if the technical specifications adopted in the implementing acts are revised [Art. 7 (2) and Art. 11 (4) in conjunction with Art. 291 TFEU].
- Information made available via a certified eFTI platform must have a certification mark [Art. 11 (3)].

Main Changes to the Status Quo

- ▶ Until now there has been no EU legislation for authorities on the acceptance of regulatory freight transport information in electronic form. Now authorities will have to accept electronic freight transport information where its transmission by companies complies with the Regulation.
- ▶ New: companies have to use a certified eFTI platform for the electronic transmission of regulatory freight transport information or must engage certified eFTI service providers.

Statement on Subsidiarity by the Commission

Unilateral initiatives by Member States to promote the transmission of electronic freight transport information will have limited effect if other Member States fail to take similar action or impose different requirements on transmission. EU action is necessary in order to remove barriers in the EU internal market. [p. 6]

Policy Context

In 2017, the European Parliament called on the Commission to ensure greater harmonisation of freight transport and to press ahead with the mandatory use of “electronic consignment notes” [Resolution on Road Transport of 18. May 2017]. The Council subsequently asked the Commission to develop “measures to support more systematic use and acceptance of e-documents and the harmonised exchange of information and data in the logistic chain” [Conclusions on the digitalisation of transport of 5 December 2017].

Legislative Procedure

17 May 2018	Adoption by the Commission
Open	Adoption by the European Parliament and the Council, publication in the Official Journal of the European Union, entry into force

Options for Influencing the Political Process

Directorates General:	DG Mobility and Transport (leading)
Committees of the European Parliament:	Transport and Tourism (leading), Rapporteur: Claudia Schmidt (EVP-Group, AU)
Federal Ministries:	Transport and Digital Infrastructure (leading)
Committees of the German Bundestag:	Transport (leading)
Decision-making mode in the Council:	Qualified majority (acceptance by 55% of Member States which make up 65% of the EU population)

Formalities

Legal competence:	Art. 91 TFEU (TFEU)
Type of legislative competence:	Shared competence [Art. 4 (2) AEUV]
Procedure:	Art. 294 TFEU (Ordinary legislative procedure)

ASSESSMENT

Economic Impact Assessment

The convergence of legislation on the electronic transmission of freight transport information is appropriate because if – as is often the case – only one company or authority in a supply chain hinders or refuses the acceptance of electronic freight transport information (eFTI), paper will still have to be used. Electronic data transmission to other members of the supply chain, instead of creating savings, then results in additional expense, and the universal use of paper will continue. Overcoming this problem facilitates major savings of both costs and paper, particularly in the case of transport using several modes of transport (“multimodal”) – especially eligible “combined transport” (CT) using rail-

road or internal waterways-road (see [cepPolicyBrief 05/2018](#)) – where several modes of transport or service providers have to provide and update freight transport information during a transport operation.

The proposed common EU provisions on electronic transmission of regulatory freight transport information will promote the use of digital technologies by transport companies and authorities and thus ensure major gains in efficiency, thereby strengthening the internal market because they establish clear conditions under which authorities are obliged to accept electronic freight transport information. Companies can thus effectively comply with the information requirements of authorities by electronic means. In addition, it prevents the patchwork of various different formats and systems that would arise from digitalisation initiatives by Member States.

The term “eFTI platform” and accompanying technical specifications, essential for the application of the Regulation, are currently still vague as they still have to be defined in detail by the Commission in implementing acts. Specifications on data models and interfaces also have yet to be provided. It is appropriate that the common specifications for electronic transmission are to be technology-neutral because deciding on specific technologies or procedures too soon could result in a failure to achieve objectives and in excessive costs. It remains to be seen whether the future implementing acts will actually be technology-neutral.

When establishing future technical specifications, sufficient consideration should be given by the Commission to existing IT solutions, developed specifically for the different modes of transport on the basis of information requirements under international conventions and EU law [p. 10], **because, for reasons of efficiency and cost, it is necessary to ensure that previous investment in IT solutions can still be utilised to the greatest possible extent**. The aim of this should be to find a usable “common denominator” from the existing IT solutions on which the eFTI-platforms can be based without major additional expense.

Irrespective of this, however, it is still the case that:

In order to guarantee the authenticity and integrity of the data and **interoperability** of the systems, **technical specifications that apply across transport modes are more suitable than those** – envisaged by the Commission – **that are mode-specific** because common specifications ensure interoperability from the outset and save subsequent cost-intensive adaptations.

However, this sort of cross-mode “one-size-fits-all” solution may result in additional costs for companies in the maritime, aviation and rail sectors if it cancels out investments that have already been made in sector-specific IT solutions [p. 10]. The affected companies should therefore urge the Commission to ensure that common specifications include as many of their technical standards or easily achievable compromise solutions as possible in order to minimise their changeover costs. Not only will these be offset by major savings in administrative costs for companies, but the companies in these transport sectors will also benefit from comprehensive interoperability since this is the only way for multimodal transport to achieve the full reduction in administrative costs. If interoperability is insufficient, these companies will have to make the information available via several different – transport-mode-specific – eFTI platforms or via costly specialised eFTI service providers, or otherwise continue to use paper. Efforts should be made to achieve a cross-mode solution at least for multimodal transport and sea-port-hinterland transport whereby containers from overseas are transported via railways or inland waterways.

Legal Assessment

Legislative Competency

Unproblematic. The EU can adopt EU-wide rules for international transport within the EU in pursuance of a “common transport policy” [Art. 90, Art. 91 and Art. 100 (2) TFEU]. In addition, EU-wide rules on electronic freight transport information serves to safeguard the functioning of the internal market.

Subsidiarity

Considering the cross-border nature of freight transport within the EU, EU action is justified. In addition, EU-wide common rules on electronic freight transport information can only be adopted at EU level.

Conclusion

The proposed common EU provisions on electronic transmission of regulatory freight transport information will ensure major gains in efficiency, thereby strengthening the internal market. When establishing technical specifications, sufficient consideration should be given to existing IT solutions so that previous investment can still be utilised to the greatest possible extent. In order to guarantee interoperability, technical specifications that apply across transport modes are more suitable than those that are mode-specific.