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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**concerning type-approval requirements for the deployment of the eCall in-vehicle
system and amending Directive 2007/46/EC**

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The purpose of this proposal is to introduce in the EC motor vehicle type-approval system a requirement for fitting an eCall in-vehicle system. This forms part of a set of EU legal acts for ensuring the deployment of the 112-based eCall service by 1 October 2015. The other main legislative acts linked to this eCall initiative are:

- Commission Recommendation 2011/750/EU of 8 September 2011 on support for an EU-wide eCall service in electronic communication networks for the transmission of in-vehicle emergency calls based on 112 ('eCalls')¹
- Commission Delegated Regulation (EU) No 305/2013 of 26.11.2012 supplementing Directive 2010/40/EU of the European Parliament and of the Council with regards to the harmonised provision for an interoperable EU-wide eCall²
- Proposal for Decision (EU) No.../.. of xx.xx.20xx of the European Parliament and of the Council on the deployment of the interoperable EU-wide eCall³

These different texts are complementary and together will allow for the 112 eCall service to be fully operational by 1 October 2015.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

2.1. Consultations with the interested parties

This proposal is the result of extensive consultations with major stakeholders:

The stakeholders, and notably the CARS21 High Level Group, were consulted during the process that led to the adoption of the "CARS 2020: action plan for a competitive and sustainable European car industry". More precisely, this proposal constitutes a delivery of the action: "further promote the deployment of Intelligent Transport Systems (ITS), including cooperative systems, in particular the EU-wide in-vehicle emergency call system eCall".

This proposal also takes into consideration all the consultations made in the eCall Impact Assessment. These consultations include, in particular, extensive contributions from stakeholders involved in several fora such as the European eCall Implementation Platform (EeIP), the eCall Public Service Answering Points ("PSAPs") expert Group and the eCall Driving Group within the eSafety/i-Mobility Forum, and a public consultation on the implementation of eCall that was open from 19 July to 19 September 2010.

Finally, this proposal takes into consideration the opinion of the European ITS Advisory Group, composed of 25 high level representatives from ITS service providers, associations of users, transport and facilities operators, manufacturing industry, social partners, professional associations, local authorities and other relevant fora.

2.2. Impact assessment and cost-benefit analysis

An extensive cost-benefit analysis was conducted as part of the eCall Impact Assessment for the three proposed options, including the preferred option on regulatory measures.

¹ OJ L303, 22.11.2011, p.46.

² OJ L91, 3.4.2013,p.1

³ OJ L[...],[...], p. [...].

As far as the cost-benefit analysis of the chosen option (option 3) is concerned, each of the three planned eCall regulatory measures (in-vehicle, telecommunication, PSAP) is inseparable from the other two.

2.2.1. Analysis of main benefits

The benefits identified through the impact assessment and several studies, including national ones, include:

- Reduction of fatalities (with all vehicles eCall-equipped, between 1% and 10% depending on country population density, road and emergency response infrastructure);
- Reduction of seriousness of the injuries (between 2% and 15%);
- Reduction of congestion costs caused by traffic accidents. This is due to the improvement of accident management, as the accident is immediately notified to the PSAPs and can therefore be transferred to the appropriate Traffic Management Control, which can immediately inform other road users, and help reduce secondary accidents;
- Facilitation of rescue services and increased security of rescue team (e.g. fire-fighters) when extracting trapped occupants, as the Minimum Set of Data (“MSD”) in the eCall message will, among others, provide information on the fuel type;
- Reduced SOS roadside infrastructure, as each road user would be able to trigger an emergency call from their vehicle.

2.2.2. Cost–benefit ratio

Benefits have also been quantified in monetary values and a cost-benefit analysis drawn for the different options as well for types of affected categories. The estimations are calculated up to year 2033 as this is the expected year of full penetration of the eCall service in case of the preferred policy option.

| | Policy option 1 No EU action | Policy Option 2 Voluntary approach | Policy Option 3 Regulatory measures |
|--------------------|---------------------------------|---------------------------------------|--|
| Benefit-Cost Ratio | 0.29 | 0.68 | 1.74 |

3. LEGAL ELEMENTS OF THE PROPOSAL

3.1. Legal basis

The legal basis is article 114 of the Treaty on the Functioning of the European Union.

3.2. Subsidiarity and proportionality

According to the principle of subsidiarity (Article 5.3 Treaty on the European Union), action at Union level should be taken only when the aims envisaged cannot be achieved sufficiently by Member States alone and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Union.

Road safety is an issue of major concern across the entire European Union and for all of its citizens. The purpose of the interoperable EU-wide eCall initiative is ultimately to introduce in all vehicles in the EU the minimum functionalities needed to ensure adequate handling of

the emergency calls by the emergency response services. Currently, road journeys exceed 100 million annually across the various Member States and they are increasing due to further consolidation of the European Union (through the free movement of goods, persons and services). Action is needed at EU level in order to guarantee interoperability and continuity of the service throughout Europe, which cannot be satisfactorily achieved by individual Member States alone. Moreover, taking action at EU level using common European eCall standards approved by the European Standardisation Organisations (CEN and ETSI) will ensure the efficient provision of the emergency response service across Europe, for example in the case of vehicles travelling abroad, and also help to avoid market fragmentation.

The EU-wide eCall has been designed in such a way as to minimise the impact on all the stakeholders in the value chain (automotive industry, mobile network operators, Member States - PSAPs), and to distribute this impact fairly.

3.3. Detailed explanation of the proposal

Articles 2, 4 and 5:

The proposal requires new types of passenger cars and light commercial vehicles to be constructed as to ensure that in the event of a severe accident an emergency call (eCall) to the 112 is triggered automatically. It must also be possible to trigger manually emergency calls (eCalls) to the 112.

Article 6:

Due to the nature of the information being provided by this service, rules for privacy and data protection are provided.

Articles 5, 6 and 8:

The Commission is empowered to adopt delegated acts relating to:

- Detailed technical requirements and tests for the type-approval of the eCall in-vehicle systems, which will be based on the standards referred to in Article 5;
- privacy and data protection;
- exemptions for special purpose vehicles and for other justified cases. The exemptions will be limited in number.

Article 12:

The Regulation will apply from 1 October 2015.

4. BUDGETARY IMPLICATION

There are no budgetary implications for the EU budget.

5. OPTIONAL ELEMENTS

The proposed act concerns an EEA matter and should therefore extend to the European Economic area.

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(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal of the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee⁴,

Having regard to the opinion of the European Data Protection Supervisor,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) A comprehensive Union type-approval system for motor vehicles has been established by Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 on establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive)⁵.
- (2) The technical requirements for the type-approval of motor vehicles with regard to numerous safety and environmental elements have been harmonised at Union level in order to ensure a high level of road safety throughout the Union.
- (3) In order to further improve road safety, the Communication "eCall: Time for Deployment"⁶ proposes new measures to accelerate the deployment of an in-vehicle emergency call service in the Union. One of the suggested measures is to make mandatory the fitting of eCall in-vehicle systems in all new vehicles starting with M1 and N1 vehicle categories as defined in Annex II to Directive 2007/46/EC.
- (4) On 3 July 2012, the European Parliament approved the Report on eCall: a new 112 service for citizens⁷ urging the Commission to submit a proposal within the framework of Directive 2007/46/EC in order to ensure the mandatory deployment of a public, 112-based eCall system by 2015.
- (5) The Union eCall system is expected to reduce the number of fatalities in the Union as well as the severity of injuries caused by road accidents. The mandatory introduction

⁴ OJ C [...], [...], p. [...].

⁵ OJ L 263, 9.10.2007, p.1.

⁶ COM (2009) 434 final.

⁷ 2012/2056(INI).

of the eCall system would make the service available to all citizens and thus contribute to reduce human suffering and healthcare and other costs.

- (6) The provision of accurate and reliable positioning information is an essential element of the effective operation of the eCall in-vehicle system. Therefore, it is appropriate to require its compatibility with the services provided by satellite navigation programmes, including the systems established under the Galileo and EGNOS programmes set out in Regulation (EC) No 683/2008 of the European Parliament and of the Council of 9 July 2008 on the further implementation of the European satellite navigation programmes (EGNOS and Galileo)⁸.
- (7) The mandatory equipping of vehicles with the eCall in-vehicle system should initially apply only to new passenger cars and light commercial vehicles (categories M1 and N1) for which an appropriate triggering mechanism already exists.
- (8) The mandatory equipping of vehicles with the eCall in-vehicle system should be without prejudice to the right of all stakeholders such as car manufacturers and independent operators to offer additional emergency and/or added value services, in parallel with or building on the 112-based eCall in-vehicle system. However, these additional services should be designed not to increase driver distraction.
- (9) In order to ensure open choice for customers and fair competition, as well as encourage innovation and boost the competitiveness of the Union's information technology industry on the global market, the eCall in-vehicle system should be accessible free of charge and without discrimination to all independent operators and based on an interoperable and open-access platform for possible future in-vehicle applications or services.
- (10) In order to maintain the integrity of the type-approval system, only those eCall in-vehicle systems which can be fully tested should be accepted for the purposes of this Regulation.
- (11) Small series vehicles are excluded under Directive 2007/46/EC from the requirements on the protection of occupants in the case of frontal impact and side impact. Therefore, those small series vehicles should be excluded from the obligation to comply with the eCall requirements.
- (12) Special purpose vehicles should be subject to compliance with the eCall requirements set out in this Regulation, unless type-approval authorities consider, on a case by case basis, that the vehicle cannot meet those requirements due to its special purpose.
- (13) According to the recommendations made by the Article 29 Data Protection Working Party and contained in the 'Working document on data protection and privacy implications in eCall initiative', adopted on 26 September 2006⁹, any processing of personal data through the eCall in-vehicle system should comply with the personal data protection rules provided for in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data¹⁰ and in Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic

⁸ OJ L 196, 24.7.2008, p.1.

⁹ 1609/06/EN – WP 125.

¹⁰ OJ L 281, 23.11.1995, p. 31.

communications)¹¹, in particular to guarantee that vehicles equipped with eCall in-vehicle systems, in their normal operational status related to 112 eCall, are not traceable and are not subject to any constant tracking and that the minimum set of data sent by the in-vehicle eCall system includes the minimum information required for the appropriate handling of emergency calls.

- (14) The European Standardisation Organisations, ETSI and CEN, have developed common standards for the deployment of a pan-European eCall service, which should apply for the purposes of this Regulation, as this will facilitate the technological evolution of the in-vehicle eCall service, ensure the interoperability and continuity of the service throughout the Union, and reduce the costs of implementation for the Union as a whole.
- (15) In order to ensure the application of common technical requirements regarding the eCall in-vehicle system, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the detailed rules on the application of the relevant standards, on testing, on personal data and privacy protection and on exemptions for certain vehicles or classes of vehicles of categories M1 and N1. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (16) Vehicle manufacturers should be allowed sufficient time to adapt to the technical requirements of this Regulation.
- (17) This Regulation is a new separate Regulation in the context of the EC type-approval procedure provided for by Directive 2007/46/EC and therefore, Annexes I, III, IV, VI, IX and XI to that Directive should be amended accordingly.
- (18) Since the objectives of this Regulation, namely the achievement of the internal market through the introduction of common technical requirements for new type approved vehicles equipped with the eCall in vehicle system, cannot be sufficiently achieved by the Member States and can, therefore, by reason of its scale, be better achieved at the level of the Union, the Union may adopt measures in accordance with the principle of subsidiarity set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

Article 1
Subject matter

This Regulation establishes the technical requirements for the EC type-approval of vehicles regarding the eCall in-vehicle system.

Article 2
Scope

This Regulation shall apply to vehicles of categories M1 and N1 as defined in points 1.1.1. and 1.2.1. of Annex II to Directive 2007/46/EC.

¹¹ OJ L 201, 31.7.2002, p. 37.

Article 3
Definitions

For the purpose of this Regulation and in addition to the definitions laid down in Article 3 of Directive 2007/46/EC and in Article 2 of Commission Delegated Regulation (EU) No 305/2013¹², the following definitions shall apply:

- (1) ‘e-Call in-vehicle system’ means a system activated either automatically via in-vehicle sensors or manually, which carries, by means of mobile wireless communications networks, a standardised minimum set of data and establishes a 112-based audio channel between the occupants of the vehicle and a public safety answering point;
- (2) ‘in-vehicle system’ means the in-vehicle equipment together with the means to trigger, manage and effect the eCall transmission via a public mobile wireless communications network providing a link between the vehicle and a means of enacting the eCall service via a public mobile wireless communications network.

Article 4
General obligations of the Manufacturers

Manufacturers shall demonstrate that all new types of vehicles referred to in Article 2 are equipped with an eCall in-vehicle system, in accordance with this Regulation and the delegated acts adopted pursuant to this Regulation.

Article 5
Specific obligations of manufacturers

1. Manufacturers shall ensure that all their new types of vehicle are manufactured and approved in accordance with the requirements set out in this Regulation and the delegated acts adopted pursuant to this Regulation.
2. Manufacturers shall demonstrate that all their new types of vehicle are constructed to ensure that in the event of a severe accident which occurs in the territory of the Union, an eCall to the single European emergency number 112 is triggered automatically.

Manufacturers shall demonstrate that new vehicles are constructed as to ensure that an eCall to the single European emergency number 112 can also be triggered manually.
3. Manufacturers shall ensure that the receivers in the in-vehicle systems are compatible with the positioning services provided by satellite navigation systems including the Galileo and the EGNOS systems.
4. Only those eCall in-vehicle systems which can be tested shall be accepted for the purposes of type-approval.
5. eCall in-vehicle systems shall comply with the requirements of Directive 1999/5/EC¹³ and UNECE Regulation No 10¹⁴.
6. The eCall in-vehicle system shall be accessible to all independent operators free of charge and without discrimination at least for repair and maintenance purposes.

¹² OJ L 91, 03.04.2013, p. 1.

¹³ OJ L 91, 7.4.1999, p.10.

¹⁴ OJ L 254, 20.9.2012, p.1.

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 9 establishing the detailed technical requirements and tests for the type-approval of eCall in-vehicle systems and amending Directive 2007/46/EC accordingly.

The technical requirements and tests referred to in the first subparagraph shall be based on the requirements set out in paragraphs 3, 4 and 6 and on the following standards, where applicable:

- (a) EN 16072 ‘Intelligent transport system-ESafety-PanEuropean eCall-Operating requirements’;
- (b) EN 16062 ‘Intelligent transport systems-ESafety-ECall high level application requirements (HLAP)’;
- (c) EN 16454 ‘Intelligent transport systems - eSafety - eCall end to end conformance testing’, as regards the eCall in-vehicle system conformance to the pan-European eCall;
- (d) any additional European standards or UNECE Regulations relating to eCall systems.

Article 6

Rules on privacy and data protection

1. In accordance with Directive 95/46/EC and Directive 2002/58/EC, manufacturers shall ensure that vehicles equipped with eCall in-vehicle system are not traceable and are not subject to any constant tracking in their normal operational status related to the eCall.

Privacy enhancing technologies shall be embedded in the in-vehicle eCall system in order to provide eCall users with the desired level of privacy protection, as well as the necessary safeguards to prevent surveillance and misuse.

2. The minimum set of data sent by the eCall in-vehicle system shall include only the minimum information required for the appropriate handling of emergency calls.
3. Manufacturers shall ensure that eCall users are provided with clear and comprehensive information about the processing of data carried out through the eCall in-vehicle system, in particular about:
 - (a) the reference to the legal basis for the processing;
 - (b) the fact that the eCall in-vehicle system is activated by default;
 - (c) the modalities of data processing that the eCall in-vehicle system performs;
 - (d) the purpose of the eCall processing;
 - (e) the types of data collected and processed and the recipients of that data,
 - (f) the time limit for the retention of data in the in-vehicle system;
 - (g) the fact that there is no constant tracking of the vehicle;
 - (h) the modalities for exercising data subjects' rights;
 - (i) any necessary additional information regarding the processing of personal data in relation to the provision of a private eCall service and/or other added value services.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 9 which shall define further the requirement of the absence of traceability and tracking and the privacy enhancing technologies referred to in paragraph 1 as well as the modalities of the private data processing and of the user information referred to in paragraph 3.

Article 7
Obligations of the Member States

With effect from 1 October 2015, national authorities shall only grant EC type-approval in respect of the eCall in-vehicle system to new types of vehicles which comply with this Regulation and the delegated acts adopted pursuant to this Regulation.

Article 8
Exemptions

1. The Commission may exempt certain vehicles or classes of vehicles of categories M1 and N1 from the obligation to install eCall in-vehicle systems set out in Article 4, if following a cost/benefit analysis, carried out or mandated by the Commission, and taking into account all relevant safety aspects, the application of those systems proves not to be appropriate to the vehicle or class of vehicles concerned.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 9 setting out the exemptions referred to in paragraph 1. Those exemptions shall cover vehicles such as special purpose vehicles and vehicles without airbags and be limited in number.

Article 9
Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 5 (7), Article 6(4) and in Article 8(2) shall be conferred on the Commission for an indeterminate period of time from [...] [Publications Office, please insert the exact date of entry into force].
3. The delegation of powers referred to in Article 5(7), in Article 6(4) and in Article 8(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 5(7), Article 6(4) and Article 8(2), shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 10
Penalties for non-compliance

1. Member States shall lay down the rules on penalties applicable to non-compliance by manufacturers with the provisions of this Regulation and shall take all measures to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Members States shall notify those provisions to the Commission, and shall notify it without delay of any subsequent amendment affecting them.
2. The type of non-compliance which is subject to a penalty shall include at least the following:
 - (a) making a false declaration during an approval procedure or a procedure leading to a recall;
 - (b) falsifying test results for type-approval;
 - (c) withholding data or technical specifications which could lead to recall or withdrawal of type-approval.

Article 11
Amendments to Directive 2007/46/EC

Annexes I, III, IV, VI, IX and XI to Directive 2007/46/EC are amended in accordance with the Annex to this Regulation.

Article 12
Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 October 2015.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX

Amendments to Directive 2007/46/EC

Directive 2007/46/EC is amended as follows:

- (1) In Annex I, the following points 12.8. and 12.8.1. are added:
 “12.8 eCall system
 12.8.1 description or drawings”;
- (2) In Annex III, In Part I, section A, the following points 12.8. and 12.8.1. are added:
 “12.8 eCall system
 12.8.1 Presence: yes/no (1)”;
- (3) Part 1 of Annex IV is amended as follows:
 - (a) The following item 71. is added to the table:

| Item | Subject | Regulatory act | Applicability | | | | | | | | | | |
|------|--------------|-------------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|--|
| | | | M ₁ | M ₂ | M ₃ | N ₁ | N ₂ | N ₃ | O ₁ | O ₂ | O ₃ | O ₄ | |
| 71. | eCall system | Regulation (EU) No..... | X | | | X | | | | | | | |

- (b) Appendix 1 is amended as follows:
 - (i) the following item 71. is added to table 1:

| Item | Subject | Regulatory act | Specific issues | Applicability and specific requirements |
|------|--------------|-------------------------|-----------------|---|
| 71. | eCall system | Regulation (EU) No..... | | N/A |

- (ii) the following item 71. is added to table 2:

| Item | Subject | Regulatory act | Specific issues | Applicability and specific requirements |
|------|--------------|-------------------------|-----------------|---|
| 71. | eCall system | Regulation (EU) No..... | | N/A |

- (4) In the Appendix to Model A in Annex VI, the following item 71. is added to the table:

| Item | Subject | Regulatory reference ⁽¹⁾ act | As amended by | Applicable to versions |
|------|--------------|---|---------------|------------------------|
| 71. | eCall system | Regulation (EU) No..... | | |

(5) Annex IX is amended as follows:

(a) In Part I, Model B is amended as follows:

(i) Side 2 “vehicle category M1” is amended as follows:

- point 52 is replaced by the following:

“52. eCall presence yes/no”,

- the following point 53 is added:

“53. Remarks ⁽¹¹⁾:”;

(ii) side 2 “vehicle category N1” is amended as follows:

- point 52 is replaced by the following:

“52. eCall presence yes/no”,

- the following point 53 is added:

“53. Remarks ⁽¹¹⁾:”;

(b) in Part II, model C2 is amended as follows:

(i) side 2 “vehicle category M1” is amended as follows:

- point 52 is replaced by the following:

“52. eCall presence yes/no”,

- the following point 53 is added:

“53. Remarks ⁽¹¹⁾:”;

(ii) side 2 “vehicle category N1” is amended as follows:

- point 52 is replaced by the following:

“52. eCall presence yes/no”,

- the following point 53 is added:

“53. Remarks (11):”;

(6) In Appendix 1 to Annex XI, the following item 71. is added to the table:

| Item | Subject | Regulatory reference act | $M_1 \leq 2\,500$ (1) kg | $M_1 > 2\,500$ (1) kg | M_2 | M_3 |
|------|--------------|--------------------------|--------------------------|-----------------------|-------|-------|
| 71. | eCall system | Regulation (EU) No..... | A | A | N/A | N/A |