Regulation (EU) 2015/758 of the European Parliament and of the Council of 29 April 2015 concerning type-approval requirements for the deployment of the eCall in-vehicle system based on the 112 service and amending Directive 2007/46/EC

REGULATION (EU) 2015/758 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 29 April 2015

concerning type-approval requirements for the deployment of the eCall in-vehicle system based on the 112 service and amending Directive 2007/46/EC

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 from 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 Committee[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

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[(3)].

(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) The deployment of an eCall service available in all vehicles and in all Member States has been one of the principal Union objectives in the area of road safety since 2003. In order to achieve that objective, a series of initiatives have been launched, as part of a voluntary deployment approach, but have not achieved sufficient progress to date.

(4) In order to further improve road safety, the Commission Communication of 21 August 2009 entitled ‘eCall: Time for Deployment’ proposed new measures to deploy an in-vehicle emergency call service in the Union. One of the suggested measures was to make mandatory the fitting of 112-based eCall in-vehicle systems in all new types of vehicles starting with vehicles of categories M_1 and N_1 as defined in Annex II to Directive 2007/46/EC.

(5) On 3 July 2012, the European Parliament adopted a resolution on eCall: a new 112 service for citizens, which urged 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.

(6) It is still necessary to improve the operation of the 112 service throughout the Union, so that it provides assistance swiftly and effectively in emergencies.

(7) 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, thanks to the early alerting of the emergency services. The mandatory introduction of the 112-based eCall in-vehicle system, together with the necessary and coordinated infrastructure upgrade in public mobile wireless communications networks for conveying eCalls and Public Safety Answering Points (PSAPs) for receiving and handling eCalls, would make the service available to all citizens and thus contribute to the reduction of fatalities and severe injuries, of costs relating to healthcare, of congestion caused by accidents and of other costs.

(8) In accordance with Article 1(1) of Decision No 585/2014/EU of the European Parliament and of the Council[(4)], Member States are to deploy on their territory, at least six months before the date of application of this Regulation and in any event no later than 1 October 2017, the eCall PSAP infrastructure required for the proper receipt and handling of all eCalls. In accordance with Article 3 of Decision No 585/2014/EU, Member States are to report by 24 December 2015 to the Commission on the state of implementation of that Decision. If the report concludes that the eCall PSAP infrastructure will not be operational by 1 October 2017, the Commission should take appropriate action to ensure that the eCall PSAP infrastructure is deployed.

(9) In accordance with paragraph 4 of Commission Recommendation 2011/750/EU[(5)], Member States should ensure that mobile network operators implemented the mechanism to handle the 'eCall discriminator' in their networks by 31 December 2014. If the review referred to in paragraph 6 of that Recommendation concludes that the 'eCall discriminator' will not be implemented by 31 March 2016, the Commission should take appropriate action to ensure that mobile network operators implement the mechanism to handle the 'eCall discriminator'.

(10) The provision of accurate and reliable positioning information is an essential element of the effective operation of the 112-based eCall in-vehicle system. Therefore, it is appropriate to require its compatibility with the services provided by the Galileo and European Geostationary Navigation Overlay Service (EGNOS) programmes as set out in Regulation (EU) No 1285/2013 of the European Parliament and of the Council[(6)]. The system established under the Galileo programme is an independent global satellite navigation system and the one established under the EGNOS programme is a regional satellite navigation system improving the quality of the Global Positioning System signal.

(11) The mandatory equipping of vehicles with the 112-based eCall in-vehicle system should initially apply only to new types of passenger cars and light commercial vehicles (categories M_1 and N_1) for which an appropriate triggering mechanism already exists. The possibility of extending the application of the 112-based eCall in-vehicle system requirement in the near future to include other vehicle categories, such as heavy goods vehicles, buses and coaches, powered two-wheelers and agricultural tractors, should

be further assessed by the Commission with a view to presenting, if appropriate, a legislative proposal to that effect.

(12) The equipping of vehicles of existing types to be manufactured after 31 March 2018 with the 112-based eCall in-vehicle system should be promoted in order to increase penetration. In respect of types of vehicles type-approved before 31 March 2018, an eCall system may be retrofitted on a voluntary basis.

(13) The public interoperable Union-wide eCall service based on the single European emergency call number 112 and third party service supported eCall systems (TPS eCall services) can coexist provided that the measures necessary to ensure continuity in the provision of the service to the consumer are adopted. In order to ensure continuity of the public 112-based eCall service in all Member States throughout the lifetime of the vehicle and to guarantee that the public 112-based eCall service is always automatically available, all vehicles should be equipped with the public 112-based eCall service, regardless of whether or not a vehicle owner opts for a TPS eCall service.

(14) Consumers should be provided with a realistic overview of the 112-based eCall in-vehicle system and of the TPS eCall system, if the vehicle is equipped with one, as well as comprehensive and reliable information regarding any additional functionalities or services linked to the private emergency service, in-vehicle emergency or assistance-call applications on offer, and regarding the level of service to be expected with the purchase of third party services and the associated cost. The 112-based eCall service is a public service of general interest and should therefore be accessible free of charge to all consumers.

(15) The mandatory equipping of vehicles with the 112-based 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, any additional services should be designed in such a way that they do not increase driver distraction or affect the functioning of the 112-based eCall in-vehicle system and the efficient work of emergency call centres. The 112-based eCall in-vehicle system and the system providing private or added-value services should be designed in such a way that no exchange of personal data between them is possible. Where provided, those services should comply with the applicable safety, security and data protection legislation and should always remain optional for consumers.

(16) 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 systems should be based on an interoperable, standardised, secure and open-access platform for possible future in-vehicle applications or services. As this requires technical and legal back-up, the Commission should assess without delay, on the basis of consultations with all stakeholders involved, including vehicle manufacturers and independent operators, all options for promoting and ensuring such an open-access platform and, if appropriate, put forward a legislative initiative to that effect. Furthermore, the 112-based eCall in-vehicle system should be accessible for a reasonable fee not exceeding

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2015/758 of the European Parliament and of the Council. (See end of Document for details)*

a nominal amount and without discrimination to all independent operators for repair and maintenance purposes in accordance with Regulation (EC) No 715/2007 of the European Parliament and of the Council[7].

(17) In order to maintain the integrity of the type-approval system, only those 112-based eCall in-vehicle systems which can be fully tested should be accepted for the purposes of this Regulation.

(18) The 112-based eCall in-vehicle system, as an emergency system, requires the highest possible level of reliability. The accuracy of the minimum set of data and of the voice transmission, and quality, should be ensured, and a uniform testing regime should be developed to ensure the longevity and durability of the 112-based eCall in-vehicle system. Periodic roadworthiness tests should therefore be carried out regularly in accordance with Directive 2014/45/EU of the European Parliament and of the Council[8].

(19) Small series vehicles and vehicles approved pursuant to Article 24 of Directive 2007/46/EC are excluded, under that Directive, from the requirements on the protection of occupants in the event of frontal impact and side impact. Therefore, those vehicles should be excluded from the obligation to comply with the eCall requirements set out in this Regulation. Moreover, some vehicles of categories M_1 and N_1 cannot for technical reasons be equipped with an appropriate eCall triggering mechanism.

(20) Special purpose vehicles should be subject to compliance with the eCall requirements set out in this Regulation, where the base/incomplete vehicle is equipped with the necessary triggering mechanism.

(21) Any processing of personal data through the 112-based 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[9] and in Directive 2002/58/EC of the European Parliament and of the Council[10], in particular to guarantee that vehicles equipped with 112-based 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 112-based eCall in-vehicle system includes the minimum information required for the appropriate handling of emergency calls. This should take into account the recommendations made by the Working Party on the Protection of Individuals with regard to the Processing of Personal Data set up under Article 29 of Directive 95/46/EC ('Article 29 Data Protection Working Party') and contained in its 'Working document on data protection and privacy implications in eCall initiative', adopted on 26 September 2006.

(22) Manufacturers should implement all the necessary measures in order to comply with the rules on privacy and data protection set out in this Regulation in accordance with Articles 7 and 8 of the Charter of Fundamental Rights of the European Union[11].

(23) When complying with technical requirements, vehicle manufacturers should integrate technical forms of data protection into in-vehicle systems and should comply with the principle of 'privacy by design'.

(24) Manufacturers should provide the information about the existence of a free public eCall system, based on the single European emergency number 112, the right of the vehicle owner to choose to use that system rather than a TPS eCall system and the processing of data carried out through the 112-based eCall in-vehicle system as part of the technical documentation handed over together with the vehicle. That information should also be available for downloading online.

(25) Data transmitted via the 112-based eCall in-vehicle system and processed by the PSAPs can be transferred to the emergency service and service partners referred to in Decision No 585/2014/EU only in the event of incidents related to eCalls and under the conditions set out in that Decision and are used exclusively for the attainment of the objectives of that Decision. Data processed by the PSAPs through the 112-based eCall in-vehicle system are not transferred to any other third parties without the explicit prior consent of the data subject.

(26) The European standardisation organisations, the European Telecommunications Standards Institute (ETSI) and the European Committee for Standardisation (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 eCall in-vehicle service, ensure the interoperability and continuity of the service throughout the Union, and reduce the costs of implementation for the Union as a whole.

(27) In order to ensure the application of common technical requirements regarding the 112-based 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 exemption of certain classes of vehicles of categories M_1 and N_1 from the obligation to install eCall in-vehicle systems, of the establishment of detailed technical requirements and tests for the EC type-approval of vehicles with regard to their eCall in-vehicle systems and the EC type-approval of systems, components and separate technical units designed and constructed for such vehicles, and of the establishment of detailed technical rules and test procedures for the application of certain rules on personal data processing and for ensuring that there is no exchange of personal data between the 112-based eCall in-vehicle system and third party systems. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level and with relevant stakeholders, consulting in particular consumer protection organisations, as well as the European Data Protection Supervisor and the Article 29 Data Protection Working Party in accordance with the applicable legislation. 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.

(28) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers relating to the practical arrangements for assessing the absence of traceability and tracking, the template for the user information and the administrative provisions for the EC type-approval regarding the template for the information documents to be provided by manufacturers for the purposes of the type-approval, the