



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP
AND SMES
Chemicals and Consumer Industries
Food Industry
Head of Unit

Brussels
GROW/PT/fm/ddg1.d.3(2020) 3425441

Mr Olli-Pekka Rantala
Director-General of the Services Department
Ministry of Transport and Communications
Eteläesplanadi 16
FI-00100 Helsinki
@: hanna.laurila@lvm.fi

Sent by e-mail

Subject: Guidance on interpretation of the Directive 2014/32/EU (Measuring Directive) regarding taximeters – Your letter of 17 April 2020

I refer to your letter of 17 April 2020 by which you ask the Commission services to answer some questions regarding Directive 2014/32/EU on measuring instruments (MID) as regards “*taximeters*” and in particular the scope and its Article 3. I also refer to the online discussion you had with the Commission services on 6 May.

In your letter, you also raise some issues which are outside the scope of MID. I note that our answer only concerns the general aspects that are relevant from the MID point of view and which, in our opinion, are sufficient to allow the Finnish authorities to progress with the drafting of their legislation, in accordance with their working program and timelines.

However, this letter does not take any position as regards regulatory texts, which as you note, are currently under preparation in Finland, as the Commission services have not received any such concrete texts.

Please note that the views expressed in this letter do not commit the European Commission and are not legally binding, since only the Court of Justice of the European Union can give an authoritative interpretation of EU law.

Following this clarification, and after examination of the issues you raised, I would like to note the following:

1. General provisions and scope of MID:

Directive 2014/32/EU on measuring instruments (MID), based on Article 114 of the *Treaty on the Functioning of the European Union* (hereinafter TFEU), intends to harmonise the metrological performance requirements for the placing on the market

and/or the putting into use of measuring instruments covered by it and subject to legal metrological control. It intends therefore to ensure the free movement of measuring instruments subject to legal metrological control and to contribute to the establishment and functioning of the internal market.

Article 2(1)¹ of MID defines its scope, the measuring instruments to which the Directive applies. According to Article 4(1), “*measuring instrument*” means any device or system with a measurement function that is covered by Article 2(1)”.

In accordance with Article 6 of MID, measuring instruments covered by it must meet the essential requirements set out in Annex I and in the relevant instrument-specific Annex.

According to Article 7(2) of MID (making available on the market and putting into use) “*Member States shall take all appropriate measures to ensure that measuring instruments are made available on the market and/or put into use only if they satisfy the requirements of this Directive*”.

It results that measuring instruments falling under the scope of MID, as defined in its Article 2(1), including “*taximeters*”, have to comply with the Directive. In other words, only “*taximeters*” having undergone the required conformity assessment procedures and bearing the required CE and M markings may be made available on the market and/or be put into use.

In this framework, as far as any of the devices referred to in point 2, page 3 of your letter, falls under the definition of “*taximeter*” as defined in Annex IX (MI-007) of MID, it has to comply with all MID requirements before it is allowed to be legally placed on the market and/or put into use [as in point a) of the examples you refer to].

In accordance with Article 7(2) and Chapter 5 of MID, and under their market surveillance obligations, Member States have to take all appropriate measures to ensure that “*taximeters*” made available on the market and/or put into use, satisfy the MID requirements and if not, take the necessary measures to ensure effective implementation. Furthermore, Regulation (EC) No 765/2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products introduced detailed common provisions on the obligations of Member States to ensure the implementation and enforcement of Union harmonisation legislation, which includes, amongst others, the introduction of a Union market surveillance framework, so as to ensure that only products complying with the legal requirements are placed on the market. In case a Member State, following the investigation of a complaint or under the general sample testing of the characteristics of a product, finds out that a specific product does not comply with the applicable Union legislation, it must take the necessary measures to withdraw or restrict the making available on the market of that product and initiate the procedure provided for in the Union legislation at stake [Article 42(4) of MID and, if appropriate, Article 22 of Regulation (EC) No 765/2008].

¹ Article 2(1) (scope) of MID stipulates the following: “*This Directive applies to the measuring instruments defined in the instrument-specific Annexes III to XII (hereinafter “Instrument-specific Annexes”) concerning water meters (MI-001), gas meters and volume conversion devices (MI-002), active electrical energy meters (MI-003), thermal energy meters (MI-004), measuring systems for continuous and dynamic measurement of quantities of liquids other than water (MI-005), automatic weighing instruments (MI-006), taximeters (MI-007), material measures (MI-008), dimensional measuring instruments (MI-009) and exhaust gas analysers (MI-010)*”.

Other devices and systems with a measuring function, not covered by the scope of MID as above defined, are not subject to its requirements. Such products might possibly be subject to other legislation, without prejudice to MID and other existing EU legislation.

However, the extent of the MID scope might not be sufficiently obvious in all cases as regards specific products. In case of possible doubts on whether a specific type of device/system with a measuring function is covered by the MID scope (interpreted on the basis of its wording and in the light of the state of art), should be resolved, on a case-by-case examination and following a detailed technical and legal examination in a different context and time frame.

2. Article 3 of MID - Optionality:

The principle of optionality (an MID specificity), allows Member States to decide whether or not to prescribe the use of measuring instruments covered by the Directive. The prescription of the use of the measuring instruments covered by MID, should however be regarded as the “*general rule*”.

In particular, Article 3 of MID stipulates the following:

1. “*Member States may prescribe the use of measuring instruments for measuring tasks, where they consider it justified for reasons of public interest, public health, public safety, public order, protection of the environment, protection of consumers, levying of taxes and duties and fair trading.*”
2. “*Where Member States do not prescribe such a use, they shall communicate the reasons therefor to the Commission and the other Member States*”.

Further-on, recital 9 clarifies that “*Member states should as a general rule prescribe legal metrological control. Where legal metrological control is prescribed, only measuring instruments complying with common performance requirements should be used*”.

According to Article 4(3), “*legal metrological control*” means the control of the measurement tasks intended for the field of application of a measuring instrument, for reasons of public interest, public health, safety, public order, protection of the environment, levying of taxes and duties, protection of the consumers and fair trading”.

It results from the above, that:

- Member States should, as a “*general rule*” prescribe legal metrological control for the reasons of public interest, as referred to in MID and determined by them, in order to ensure the free movement of measuring instruments and the effective and correct implementation of MID.
- The regulated use of measuring instruments covered MID, as determined by the prescribed legal metrological control, results to the obligation of the Member State concerned to allow the making available on the market and/or the putting into use only of measuring instruments complying with the MID for the measurement tasks performed by those instruments.
- Member States must not allow the use of other non-compliant MID measuring instruments, nor issue national provisions regulating measuring instruments

covered by the scope of MID, which has to be interpreted in the light of the state of the art and the technical development in the measurements technology.

- The same reasoning applies with regard to “*taximeters*” in the meaning of MID, i.e. with regard to devices falling under the definition of “*taximeters*”, interpreted on the basis of its wording and in the light of the state of the art and the important technological developments in this field.

However, MID, being a product-harmonisation Directive based on Article 114 of the TFEU, does not affect the policies relating to the “*reasons of public interest*” justifying the legal metrological control and which are referred to in its Article 3(1): “*public health, public safety, public order, protection of the environment, protection of consumers, levying of taxes and duties and fair trading*”. MID covers only the instrument itself (metrological requirements).

Therefore, the prescription by a Member State of the use of “*taximeters*” for measuring tasks relating to their nature and intrinsic characteristic (namely measurement of duration, calculation of distance and subsequent calculation of the fare to be paid) for reasons relating e.g. to “*consumer protection*” and “*levying of taxes*”, means that when a “*taximeter*” is used, it has to comply with MID; not any non-compliant “*taximeters*” shall be made available on the market and/or put into use. Such a prescription of the use of a “*taximeter*” does not affect the possibility by that Member State to allow, for reasons e.g. relating to the organisation of its taxation policy, and in accordance with the provisions of the TFEU, the use of other devices/systems, as it is the case new available electronic technologies allowing to store reliable data by other technical means and which are not “*taximeters*”. Such devices/systems must be clearly outside the definition and the characteristics of “*taximeters*” as provided for in Annex IX (MI-007) to MID and interpreted in the light of the state of the art. However, as above mentioned, the qualification on whether a specific device/system is outside the scope of MID cannot be resolved by this letter.

It results, that on the basis of the currently available information, the Commission services cannot identify, at this stage, a possible infringement of section 25 of the Vehicles Act as amended by Act 321/2017². In order however, to ensure clarity in the legal text, it would be advisable to make explicit reference in the text that the “*taximeters*” have to be compliant with MID. Furthermore, the possible regulation of such “*other*” devices, is an issue that is not covered by MID, as those “*devices*” are not outside its scope. It is however necessary to ensure that the implementation of such a provision would not result to indirect incorrect implementation of MID and that a clear distinction between the scope of MID with the use of “*taximeters*” and the “*other*” devices/applications should be guaranteed in all cases and for the different other types of devices. Such questions will need to be examined by all Commission services concerned, concretely, in case, of new draft national provisions affecting such issues.

² On the basis of the information in your letter of 17 April 2020, the current wording of section 25 of the Vehicles Act stipulates the following: “*If the price of the journey is based on measuring the distance or time, a vehicle used for transport requiring a licence shall have a taximeter, or some other device or system with which a similar level of measurement accuracy and standard of data protection can be achieved shall be used to determine the price*”.

3. “Taximeters”:

“Taximeters”, as defined in the instrument-specific Annex IX (MI-007), are one of the categories of measuring instruments covered by it.

MID instrument-specific, Annex IX (MI-007) defines a “taximeter» as follows:

- *«a device that works together with a signal generator(1) to make a measuring instrument.*
- *This device measures duration, calculates distance on the basis of a signal delivered by the distance signal generator.*
- *Additionally, it calculates and displays the fare to be paid for a trip on the basis of the calculated distance and/or the measured duration of the trip”.*

- It is explicitly clarified in the footnote to the definition that “(1) *The distance signal generator is outside the scope of this Directive”.*
- The fare is defined as “*the total amount of money due for a trip based on a fixed initial hire fee and/or the length and/or the duration of the trip”.*

MID Annex IX (MI-007) provides for specific design requirements in order to guarantee that the taximeter is “*designed to calculate the distance and to measure the duration of a trip*” and also “*to calculate and display the fare*” (points 1 and 2 of that Annex). It is further required that a taximeter shall be able to supply the following data through an appropriate secured interface(s): “*general information: constant of the distance signal generator*”. Additionally, “*national legislation may require certain devices to be connected to the interface(s) of a taximeter...*” (point 4). “*If relevant, it shall be possible to adjust a taximeter for the constant of the distance signal generator to which it is to be connected and to secure the adjustment*” (point 5).

Annex IX (MI-007) of MID provides also the following:

- ✓ “*The conditions for the compatibility between the taximeter and the distance signal generator shall be specified by the manufacturer of the taximeter” (point 10)”.*
- ✓ “*If the properties of the taxi are important for the correctness of the taximeter, the taximeter shall provide means to secure the connection of the taximeter to the taxi in which it is installed” (point 17).*
- ✓ “*For the purpose of testing after installation, the taximeter shall be equipped with the possibility to test separately the accuracy of time and distance measurement and the accuracy of the calculation” (point 18).*
- ✓ “*A taximeter and its installation instructions specified by the manufacturer shall be such that, if installed according to the manufacturer’s instructions, fraudulent alterations of the measurement signal presenting the distance travelled are sufficiently excluded” (point 19).*

Although MID (New Approach Directive) is drafted in such a way so as to allow technological progress and not to obstruct the constant evolution in measurement technology, being a product-related Directive, its scope is determined by the allowed limits in the definition of the measuring instruments involved, i.e. “taximeters”, interpreted in accordance with the state of art.

Although the classification of a specific device as a “*taximeter*” in the meaning of MID has to be considered on a case-by-case basis, on the basis of its design and characteristics, the wording of MID allows for some general observations.

It results from Annex IX (MI-007) of MID, the definition and the technical requirements, that “*taximeters*” in the meaning of MID are devices permanently installed in the vehicle, which work with a distance signal generator (which is not subject to MID) and which devices perform the measuring tasks of measuring distance, calculating duration and also calculating and displaying the fare to be paid for the “*trip*”.

In this framework, and without taking position with regard to specific devices and systems on the market, mobile devices (as smartphones) via the internet platforms, without any connection to the taxi/vehicle, would not in principle, be considered as “*taximeters*” in the meaning of MID, as those devices have no connection with the taxi/vehicle and although they provide a measurement of time and distance, do not correspond to the other technical characteristics required by MID, e.g. to calculate the fare and display it at any moment during the trip (fare based on measurement data produced by the meter). This would include phone applications based on internet/satellite and used also in order to measure time and distance, as iOS and Android-based applications downloaded in the Apple and Google app stores to phones and tablet computers. Such devices, to the extent that they cannot be considered as “*taximeters*”, are outside the scope of MID.

4. Notion of “taxi” and other aspects:

In your letter, you raise a series of questions as regards aspects that are outside the MID scope.

As above explained, MID, being a product-related Directive, does not cover any aspects relating to the organisation, the conditions and the requirements for access to “*taxi*” and other “*passenger transport services*” activities, neither to any competition aspects that could affect the access to such activities and professions. Further-on, aspects relating to the professional qualifications and the equipment requirements for vehicles used for passenger-transport service are outside the scope of MID. Whether a “*taxi*” or “*private-hire-vehicle*” service is used and how such services may possibly be regulated by Member States, is an issue outside MID. This includes issues such as price levels, vehicle safety and insurance requirements, minimum quality standards for service, taxation aspects etc.

It results that the organisation of the “*passenger-transport services*” and the requirement for the use of a “*taximeter*” or of “*another*” device/system not being a “*taximeter*” is not an issue covered by MID.

5. Conclusion:

We hope that the above preliminary observations, which do not commit the Commission and might be modified on the basis of further analysis and new elements of information, provide sufficient first answers to the issues you raised, allowing thus the Finnish

authorities to progress on the orientations to follow for amending their legislation or elaborating new.

As above mentioned, the Commission services will be in a position to provide concrete observations on envisaged national technical regulations, in the framework of the dialogue and the procedures established under Directive (EU) 2015/1535 of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, under which any formal draft has to be notified.

My colleagues and I are at your disposal should you need further clarifications.

Yours sincerely,

(e-signed)
Stefano SORO