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# Regulating Data Systems of Road Transport Telematics in Russia and Worldwide

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**Abstract**

The paper is focused on the problem of regulating the operation of data systems of road transport telematics in the Russian Federation to satisfy the widening needs of governments and municipal authorities, natural and legal persons who access and use the relevant data. The authors identify two main approaches to improving the law applicable to road transport telematics: comprehensive regulation and selective, point-by-point regulatory changes. Both approaches envisage introducing amendments to the law, removing gaps including by defining the legal regime applicable to data generated through the use of transport telematics, creating an environment for efficient operation of the Autonet, and protecting personal data in the same time. The subject of the paper is domestic regulations governing social relationships in transport telematics data systems, in particular, those regarding the procedures for the development, operation and use of such systems including collection, storage, processing and availability of data generated by vehicles including odometers operated in the territory of the Eurasian Economic Union; the requirements to cartographic support for transport telematics data systems; international regulatory experience of creating, operating and using telematics data systems and the legal regime governing the relevant data. The objective of research is to study how current regulation can be improved and administrative barriers removed to support the implementation of the Autonet component of the National Technology Initiative. The research methodological approach of the study has demanded implementation of both general and special research methods such as philosophic one, formal logical method, structural systemic one, historical, formal legal, dogmatic, interpretative, comparative and the

method of expert assessment. The general research methods mentioned involved the techniques such as structuring, description, analysis and synthesis of research findings resulting from the analysis of domestic and international regulations. Based on the analysis made, the authors of the study identified gaps and conflicts in the legislative regulation in the field under consideration. Suggestions and recommendations aimed for improving situation are made.

**Keywords**

administrative barriers, data system, road transport telematics, navigation, data processing, information, transport vehicle, intelligent transport system, information systems, navigation telematic platform.

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## Background

The Autonet component of the National Technology Initiative (para 7 of the Action Plan/Roadmap approved by Russian Federation Government Resolution No. 535-r of 29 March 2018 as amended by Government Resolutions No. 927-r of 13 May 2019 and No. 1815-r of 11 July 2020), which is actively pursued at the moment, requires to improve the law and remove administrative barriers for development of transport telematics. Moreover, as specified in the Action Plan, legal constraints for its implementation may include the absence of legal and technical regulations needed:

to regulate marketing of new products and make the market accessible to new types of businesses (it is doubtful that special regulation is required to make the market accessible to new types of businesses. There are general requirements to legal entities and private entrepreneurs to be established while special requirements govern specific areas of activity. However, no requirement may apply to new types of businesses since they are not there yet);

to implement new business models.

It has been also observed that, while standards to support the development and dissemination of hi-tech solutions do not yet exist, there are standard-setting regulations and documents whose provisions are not up to modern R&D challenges and priorities, only to hold back the marketing of new products and services.

Apparently, there is a need to sort out what is wrong with the Russian law and how similar problems are addressed elsewhere.

## 1. Articulating the problem

By 2025, the international market for road transport telematics systems is forecasted to reach USD 12.7 trillion, the domestic market — USD 1.17 trillion. These forecasts are contained in the roadmap developed as part of the NTI project[1].

While social relationships relevant to the implementation of the Autonet Component of the National Technology Initiative are fairly diverse by their nature, they have been largely addressed by law. However, the active trend for digitization of practically all spheres of life [Khabrieva T.Ya., 2018: 5] and the use of modern ITC technologies require, as observed in legal literature, to amend the effective law [Khabrieva T.Ya., Chernogor N.N., 2018: 5] and — in a number of cases — adopt new regulations. This also involves the improvement of domestic law to encourage the development and marketing of hi-tech solutions to make sure that Russian companies hold dominant positions in the emerging global markets [Tikhomirov Yu.A., 2020: 5].

A number of issues are to be addressed at the supranational level under the EAU Treaty, impossible to solve within the framework of domestic law. These are primarily the areas subject to customs and technical regulation. Since the issues of security of transport vehicles themselves and related requirements are within domain of technical regulation, for the most part they cannot be regulated exclusively by national law. Hence, regulation of the Autonet component of the National Technology Initiative should take into account the EAU's technical documents including the Technical Regulation of the Customs Union "On the Security of Road Vehicles" effective since 1 January 2015.

## 2. Russian law regulating the Autonet and other data systems of road transport telematics

The current stage of human development involves an ever growing use of IT and ITC technologies in all spheres of life including road transport.

[1] Available at: URL: www.cnews.ru (accessed: 21.05. 2021)

The data systems based on the telematics principle (remote vehicle condition monitoring, tracking, reading technical parameters, generating technical reports) are already at work. These systems are a combination of GPS tracking technologies with onboard diagnostics systems, something which allows to monitor the driver's behavior, register equipment failures and finally make driving safer. The telematics for road transport has a theoretically unlimited potential, with a properly adjusted telematics network allowing to streamline the operation of emergency services, vehicle insurance system, organization of parking lots and road traffic system as a whole, and to identify the need in expanding the road infrastructure.

Telematics vehicle monitoring systems do not only make road traffic safer: they also make a good tool for raising investment due to their innovative edge and marketing prospects.

However, the regulation of vehicle telematics is still at the stage of inception both in Russia and elsewhere due to the sector's novel nature and a wide range of issues underlying the regulation of road transport telematics. These include road safety, technical condition of transport vehicles, streamlining and managing traffic flows etc. Social relationships involved in road transport telematics are themselves complex by nature. Hence specific blocks of telematics-related issues are already part of different programme documents, especially those regarding information and traffic safety.

Thus, making traffic safer to preserve life, health and property of individuals has been identified as a government priority[2] (2018-2024 Road Safety Strategy for the Russian Federation). The national security strategy also deals with traffic safety issues, with the following implementation principles identified:

priority for introducing new technologies to ensure traffic safety (intelligent transportation systems, global tracking, driving automation, active and passive vehicle security, other promising systems to dramatically improve the prevention and reduce the severity of traffic accidents);

planning and reviewing activities based on findings of ongoing monitoring of accident-prone traffic zones taking into account the risk factors acknowledged by the international expert community (driving at excessive

[2] Russian Government Resolution No. 1-r of 08 January 2018 "On Approving the 2018-2024 Road Safety Strategy for the Russian Federation". Available at: URL: http://www.pravo.gov.ru (accessed: 23.01.2018)

speed and in a state of intoxication, failing to use safety belts, child retention systems and devices, safety helmets etc.).

The National Technology Initiative announced in the President's Address to the Federal Assembly in 2014 was critically important for the development and dissemination of telematics systems for road transport[3]. Essentially, the National Technology Initiative is a programme of interventions to shape principally new markets and create an environment for Russia's global technological leadership by 2035 including in web-based telematics for road transport.

The National Technology Initiative's implementation involves, in particular, the improvement of the regulatory framework and the lowering of administrative barriers identified as a "general obstacle for economic growth, welfare and better performance of public and social institutions" [Zubarev S.M., 2018: 4].

As part of the National Technology Initiative, the Government adopted Resolution No. 535-r of 29 March 2018 ("Resolution No. 535-r") to approve an action plan/roadmap for improving the law and removing administrative barriers for the Autonet component of the NTI ("Plan") which concerns the transportation, logistics, tracking and telecommunications infrastructure, only to directly affect, as a driver of economic growth, other industries and economy as a whole.

Regulating the Autonet is expected to make sure that:

the technology of Big Data generated by road vehicles operated in Russia's territory is used and an infrastructure for collecting, processing, storing and making such data available via different communication channels is in place;

telematics technologies for transportation systems and intelligent onboard systems and related services are developed and made available in line with new and progressive business models, including to make traffic safer;

active driver-assist and autonomous driving technologies are developed and used in different economic sectors;

technologies are developed for higher accuracy and reliability of positional tracking and digital mapping.

[3] Presidential Address to the Federal Assembly of 04 December 2014 // Rossiyskaya Gazeta. 2014. No. 278.

Para 7 of Resolution No. 535-r provides for the development of a draft law to put in place a regulatory framework for efficient operation of the Autonet.

The draft law envisaged by the Plan is expected to provide a framework for the development and operation of data systems for road transport telematics, and to identify their legal status; introduce relevant definitions including with regard to collection, storage, processing and availability of data to be generated by transport vehicles operated in the territory of the Russian Federation. Maps for relevant data systems, legal regime, conditions of availability and the range of users of tracking data are critically important issues.

The envisaged draft law is not there yet. Specific provisions covering road transport telematics to various extent are contained in the aforementioned strategic documents as well as in other regulations[4]. Moreover, provisions to be taken into account in developing regulations for road transport telematics are contained in a number of federal laws[5].

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[4] Transportation Strategy of the Russian Federation for the period until 2030 approved by RF Government Resolution No. 1734-r of 22 November 2008; Presidential Decree No. 899 of 07 July 2011 "On approving priority areas for the development of science and technology in the Russian Federation and a list of critically important technologies"; Concept Note for Long-Term socioeconomic development of the Russian Federation until 2020 approved by RF Government Resolution No. 1662-r of 17 November 2008; 2017–2030 Strategy for the Development of Information Society in the Russian Federation approved by Presidential Decree No. 203 of 9 May 2017; 2020 Innovative Development Strategy for the Russian Federation approved by RF Government Resolution No. 2227-r of 8 December 2011; IT Development Strategy for the Russian Federation for the period of 2014-2020 and until 2025 approved by RF Government Resolution No. 2036-3 of 1 November 2013; 2020 Concept Note for the Development of Geodesy and Cartography approved by RF Government Resolution No. 2378-r of 17 December 2010; Cyber Security Policy of the Russian Federation approved by Presidential Decree No. 646 of 5 December 2016; Russian Government Order No. 1189-r of 03 June 2019 "On approving the 2019–2021 Concept Note for the development and operation of the national data management system and action plan ("roadmap") for developing the national data management system"; RF Government Order No. 1911-r of 28 August 2019 "On approving the Concept Note for the development of the integrated government cloud platform", etc. // SPS Consultant Plus.

[5] Federal Law No. 126-FZ "On Communications" of 07 July 2003; Federal Law No. 152-FZ "On Personal Data" of 27 July 2006; Federal Law No. 149-FZ "On Data, Information Technologies and Cyber Security" of 27 July 2006; Federal Law No. 16-FZ "On Traffic Safety" of 09 February 2007; Federal Law No. 170-FZ "On Motor Vehicle Inspection and Amending Specific Regulations of the Russian Federation" of 01 July 2011, etc. // SPS Consultant Plus.

While a dedicated federal law is not there yet, the definitions to be used in the Autonet component of the National Technology Initiative are being developed to some extent:

telematics control unit[6];

satellite tracking device[7];

secure software/services, industrial internet, internet of things, information society, cyberspace, cloud computing, big data processing, technology-independent software/services, digital economy[8];

vehicle condition monitoring sensors[9];

Moscow City intelligent transportation system[10];

intelligent transportation system[11];

road machinery tracking data, road machinery telematics data[12].

However, this is not enough. To implement para 7 of the Action Plan ("road map") for improving the law and removing administrative barriers in support of the implementation of the Autonet component of the National Technology Initiative, it is required to adopt a whole set of critical decisions, in particular, those defining the legal status (including the legal

[6] Moscow Government Resolution No. 780-PP of 03 December 2013 "On the State Information System "Integrated Regional Navigation and Information System of Moscow"// SPS Consultant Plus.

[7] Customs Union Commission Resolution No. 877 of 09 December 2011 "On Approving the Customs Union Technical Regulation "On Road Transport Safety"//SPS Consultant Plus.

[8] Presidential Decree No. 203 of 09 May 2017 "On the Strategy for Development of Information Society in the Russian Federation for 2017-2030" // SPS Consultant Plus.

[9] Federal Law No. 395-FZ "On the ERA-GLONASS State Automated Information System" of 28 December 2013 // SPS Consultant Plus.

[10] Moscow Government Resolution No. 597-PP "On the Intelligent Transportation System of Moscow" of 30 August 2017.

[11] Supreme Eurasian Economic Council Decision No. 19 of 26 December 2016 "On Guidelines and Stages for Implementation of Coordinated/Agreed Transportation Policies of EAU Member States"; RF Government Order No. 1-r "On Approving the 2018–2024 Road Safety Strategy for the Russian Federation" of 08 January 2018 [2], "GOST R 56675-2015. National standard of the Russian Federation. Intelligent transportation systems. Subsystems for control and monitoring of the condition of urban and regional motorways based on analysis of road machinery telematics data" (approved and made effective by Rosstandard Order No. 1635-st of 27 October 2015) // SPS Consultant Plus.

[12] GOST R 56675-2015 // SPS Consultant Plus.

principles for development, operation and use) of the Russian tracking and telematics service platform (RTTSP) which generates national statistical and analytical data ("big data") on both motor vehicles and road infrastructure, and other transport-related information, the legal regime of the data being obtained, as well as the legal status of data operators.

Solution to the said issues largely depends on the RTTSP status. It would be optimal and promising to assign to the RTTSP the status of a public information system. Under Article 2, Federal Law No. 149-FZ of 27 July 2006 "On Data, Information Technologies and Cyber Security"[13] ("Federal Law No. 149-FZ"), a data system is a combination of data contained in databases and of information technologies and hardware which process that data. Under Article 14 of the same Federal Law, public information systems will be developed, upgraded and operated in accordance with requirements envisaged by the national legislation on contract system for procurement of goods and services for public and municipal needs, or by the national legislation on public-private (or municipal-private) partnership, on concession agreements or — where the operation of state information systems is not financed from the budgetary system — by other federal laws.

Public information systems are developed and operated on the basis of statistical and other data provided by individuals (natural persons), entities, public authorities and local government bodies.

While Federal Law No. 22-FZ "On Navigation Activities" of 14 February 2009[14] does not have any definitions related to data systems, it contains provisions relevant for road transport telematics, in particular, on public navigation maps including those of motorways.

Legislation of constituent entities of the Russian Federation contains a definition of such data systems. Thus, under Moscow Government Resolution No. 780-PP of 3 December 2013 "On the State Information System "Integrated Regional Navigation & Information System of Moscow"[15], the information system called "Moscow Integrated Regional Navigation & Information System" ("RNIS") is a public data system for collecting, processing, storing and providing tracking and telemetric data ("monitoring data") on RNIS-registered vehicles equipped with GLONASS/GLONASS-GPS tracking devices ("telematics control unit") moving around Moscow,

[13] Russian Federation Code of Laws. 2006. No. 31 (part 1). Art. 3448.

[14] Ibid. 2009. No. 7. Art. 790.

[15] Moscow Mayor and Government Bulletin. 2013. Special issue. No. 31.

data on vehicle owners and persons operating them by virtue of the right to economic management, operational control or other legitimate basis ("vehicle owners"), as well as on telematics control units, transport vehicles and other information.

Under Leningrad Oblast Government Resolution No. 328 of 04 October 2013 "On Approving the Provision on the Regional Information and Navigation System of the Leningrad Oblast"[16], the regional information and navigation system of the Leningrad Oblast (RINS LO) is a distributed architecture public data system for data/navigation support of road transport and self-propelled machinery using GLONASS/GLONASS-GPS, including for data/navigation support of auto routes in the North-South and East-West transportation corridors that cross the Leningrad Oblast territory.

In accordance to Federal Law No. 149-FZ, a data system may be operated by a natural/legal person engaged in relevant business activities including processing of information contained in its databases. Para 5, Article 14 of that law specifies that, unless otherwise established by a decision to develop the public data system, the operating functions shall be carried out by the customer who has entered into a public contract for development of such data system. Moreover, the public data system shall be commissioned under a procedure established by the said customer.

Also, the provisions of Russian Federation Government Resolution No. 676 of 06 July 2015 which establish the requirements to the procedure for development, commissioning (de-commissioning) and operation of public data systems and further storage of the data contained therein have to be taken into account. These include, in particular, the following requirements to be complied with if executive authorities or private partners have taken steps to develop, commission, operate or de-commission such systems and to further store the data contained therein:

requirements to protection of data contained in such systems established, within their competence, by the federal executive authority for cyber security and by the federal executive authority for countering the technological intelligence and protection of technical data;

requirements to arrangements and steps for protection of data contained in the system;

requirements to personal data protection envisaged by part 3, Article 19, Federal Law "On Personal Data" (where the system collects personal

[16] Available at: URL: http://www.lenobl.ru (accessed: 14.10.2013)

data). These include, in particular, the requirements to physical storage of biometric personal data and technologies of their storage outside personal data systems.

The Autonet is an information system bound to store personal data. Hence, it is not just provisions of Article 19 but also general requirements of Federal Law No. 152-FZ of 27 July 2006 "On Personal Data" that have to be complied with. It is noteworthy that the data legislation is fairly dynamic, with major adjustments in respect of personal data currently pending. In particular, a draft law containing the definition of anonymised and fully anonymised personal data not subject to the personal data legislation has been already developed.

While the federal law does not contain any definition of an "information and navigation system operator", the regional law has the definition of an "operator". In accordance with Leningrad Oblast Communication and Information Committee Order No. 11 of 13 November 2018 "On Approving the Procedure and Amount of Transfer of Monitoring Data to the Regional Information & Navigation System of the Leningrad Oblast"[17], the RINS LO operator is an entity involved in operation of the Leningrad Oblast's regional information and navigation system including processing of data contained in its databases. Under Leningrad Oblast Government Resolution No. 328 of 4 October 2013[18], the RINS LO operator is the joint-stock company "Regional Navigation & Information Center of the Leningrad Oblast" (JSC RNIC LO).

Leningrad Oblast Communication and Information Committee Order (No. 11) also define a minimum set/amount of monitoring data to be transferred to the regional information and navigation system:

on-board navigation and communication device ID;

vehicle geographic latitude in WGS-84 coordinate system;

vehicle geographic longitude in WGS-84 coordinate system;

vehicle speed;

vehicle course;

vehicle location time and date print;

alert button on;

discreet input values.

[17] Available at: URL: http://www.lenobl.ru (accessed: 16.11.2018)

[18] Available at: URL: www.lenobl.ru (accessed: 28. 12. 2013)

A definition of the legal regime applicable to data has to take into account Presidential Resolution No. 163-rp of 18 May 2017 "On Approving the Plan for Migration to Domestic GPS Technologies". In the context of digital economy, this will require to reduce the restrictions on the availability and use of spatial data, and to provide for publication of specific categories of geospatial data.

Thus, while the Russian legislation contains a fair amount of provisions that regulate road transport telematics this way or another, there is no systemic legal regulation. This is why V.V. Putin, President of the Russian Federation, requested in Order No.Pr-77 of 14 January 2017 to develop "a national navigation telematic service platform" in Russia[19].

## 3. International experience of regulating road transport telematics

Internationally, regulation of road transport telematics is not adequately developed yet for a number of reasons including the novel nature of the problem, comprehensive nature of the resulting social relationships, and wide range of issues to be regulated, many of which are not relevant for many countries still. However, some countries have already made certain steps in this direction.

For lack of a single consolidated instrument to fully regulate the issues of road transport telematics, some countries (United States, Canada, Germany, etc.) have multiple regulations applicable this way or another. Under the general rule, a legitimate vehicle owner may have a tracking (geolocation) system installed. As a matter of principle, it is a right, not an obligation since nobody (except corporate carriers) is obliged to do so. At the same time, an illegally installed (not agreed by the vehicle owner) and operated GPS system (for example, tracking an already sold vehicle) is an offense.

The overall focus is that commercial carriers should have on-board recording devices installed[20] to enable monitoring of the following information:

[19] Action Plan ("roadmap") of the Autonet component of the National Technology Initiative (Annex No. 2 to minutes of Presidium of Council for Economic Upgrading and Innovative Development of Russia under the President of Russia. 24.04.2018). Available at: http://nti.one (accessed: 10.06.2021)

[20] Safety, compliance and reporting guidelines for commercial transportation. Available at: https://csa.fmcsa.dot.gov/About/Index (accessed: 15.09. 2020)

driver's name and position (corporate association);

total driving time over eight previous days;

driving in contravention of speed limits;

data on stops;

data on fuel reserves;

data on display of alarm signals for the driver.

Many countries actively develop a system of telematics-driven car insurance to basically make it easier for the insurer to identify a driver's style using the data retrievable from a telematic unit and thus to assess the risks involved. The driver respecting the speed limit, seldom using hard acceleration/braking, and turning at lesser angles can have better terms of insurance than those who practice aggressive driving.

Thus, it could be asserted that countries currently address specific, particular issues of road transport telematics while a systemic, comprehensive solution is not there yet.

## 4. Promising ways of regulating data systems of road transport telematics

Development of such segment as road transport telematics is a natural process of technological change giving rise to new objects of social relationships. Any new object of law should fit into the existing legal system and find its place in it, with the correctness and effectiveness of regulation depending on whether this place is right. There may be several ways of fitting a new object into the existing legal system. The first and probably the simplest way is where the existing legal provisions and institutions are fully applicable to the object given its properties; the second — where the existing regulation is not fully adequate to the new object of law, with the "alien" provisions and institutions still applicable to it; and, finally, the third — where provisions designed specifically for the new object of law are developed to take into account its legal nature and properties.

A different ratio between state regulation and deregulation of specific sectors is observed at different development stages of economic relationships depending on a host of factors. Deregulation may be due to a number of reasons. There may be social relationships that:

the government does not consider necessary to regulate it;

cannot be efficiently regulated by law;

cannot be regulated by law at all.

The boundaries between these groups are dynamic and subject to change as social relationships develop. Moreover, whether regulation is efficient or not and whether strict regulation is socially justified or not is one of the main criteria in choosing between different models affecting social relationships.

Undoubtedly, unless there is regulatory support, the Autonet component of the National Technology Initiative cannot be implemented in terms of operation of telematic transportation systems and introduction of new business models and advanced technological solutions. The emerging relationships concern the rights and interests of individuals, businesses and public authorities, with legal problems partially arising from a need to determine new rights and duties for various groups of parties to social relationships in data systems of road transport telematics, and to address the issues of responsibility, only to require regulation through legislation. Moreover, regulation should largely take place at the federal level as it bears on the rights and duties of the subjects to these relationships as well as on the issues of responsibility.

The social relationships involved in the development, operation and progress of the Russian navigation telematic service platform and its interaction with data systems of road transport telematics should become a core segment of regulation.

## Conclusions

Telematic transportation systems now need to be regulated primarily to ensure they can interact with the Russian navigation telematic service platform for transfer and receipt of data between these systems and the platform within the established limits.

The telematic transportation systems currently emerging in Russia process diverse, voluminous, multi-party data. The issues of developing and operating the relevant data systems, defining the objectives and principles of their development and operation, determining the composition of data systems and of the parties to the relationships involved in their development and operation, their rights, duties and responsibilities should be addressed irrespective of these parameters.

It is critically important to define the data content, accumulation procedure and terms of accessibility of the system's resources as well as to identify ways for ensuring the security of data processed by the system including personal data.

There are apparently two main approaches to improving the law applicable to transportation telematics — comprehensive regulation and *selective* regulatory changes. Both approaches assume amending the legislation, removing regulatory gaps, in particular, identifying the legal regime applicable to the data generated by transportation telematics, and creating the conditions for efficient operation of the Autonet with uncompromising protection of personal data.

As applied to telematic transportation systems at this stage, both approaches are legitimate and have advantages of their own. In the future, the choice should invariably be for comprehensive regulation as it allows regulate relationships arising in the segment of transportation telematics by a single legal instrument. At the moment the weakness of this approach lies in inadequate development of the relationships in question and uncertainty of optimal solutions to arising problems since regulation is largely focused on what is not there yet, only to create a real risk of overlooking the problems to be addressed or choosing wrong options for lack of experience.

Selective regulatory amendments will allow to identify and promptly address the areas of concern. However, comprehensive regulation will be possible (and necessary) in the future with accumulation of experience and new knowledge.

It is already obvious that statutory regulation will ensure the development of an infrastructure for collection, processing, storage and availability of data to be generated, and solve the critical issue — who should be recognized as the owner of data — in particular, generated by the big data technology; something that will eventually determine who will have access to such data, on what terms and under what legal regime.

Moreover, other countries' best practices in respect of vehicle insurance are already available for judgment and applicable to the Russian Federation.

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