

***‘Rules governing the activity of technological platforms for intermediation between supply and demand for non-scheduled public car services within the meaning of Article 10a(8) of Decree-Law No 135 of 14 December 2018, converted, with amendments, into Law No 12 of 11 February 2019’***

**THE PRESIDENT OF THE COUNCIL OF MINISTERS**

**HAVING REGARD TO** the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) and Legislative Decree No 196 of 30 June 2003 laying down the ‘Personal Data Protection Code, laying down provisions for the adaptation of national law to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC’;

**HAVING REGARD TO** the Directive (EU) 2015/1535 of the European Parliament and of the Council 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 (codification);

**HAVING REGARD TO** Law No 400 of 23 August 1988 and, in particular, Article 17(3) thereof;

**HAVING REGARD TO** Law No 21 of 15 January 1992, entitled "*Framework Law for the transport of passengers by non-scheduled public car services*";

**HAVING REGARD TO** Legislative Decree No 285 of 30 April 1992, entitled "*New Highway Code*";

**HAVING REGARD TO** Article 10a, paragraph 8, of Decree-Law No 135 of 14 December 2018, converted, with amendments, by Law No 12 of 11 February 2019, which delegates to a specific decree of the President of the Council of Ministers, on the proposal from the Minister for Infrastructure and Transport and the Minister for Enterprises and Made in Italy, to be adopted pursuant to Article 17(3) of Law No 400 of 23 August 1988, the regulation of the activity of technological intermediation platforms that intermediate between supply and demand for non-scheduled public car services;

**TAKING INTO ACCOUNT** judgment No 56 of the Constitutional Court of 26 March 2020 and the judgments of the Court of Justice of the European Union of 13 February 2014 in Cases C-162/12 and C-163/12, C-419/12 and C-420/12;

**CONSIDERING** the opportunity of regulating the activity of technological platforms by providing for the registration of platforms in a public register and the identification of uniform requirements and obligations for managing entities in order to ensure that the use of platforms is carried out in accordance with the regulatory constraints on the conditions for the provision of taxi and rental with driver services;

**HAVING HEARD** the trade organisations, following a discussion launched on 8 February 2024, which was followed by a further five technical meetings held on 15, 22 and 29 February 2024, as well as on 7 March 2024 and 3 April 2024 respectively;

**HAVING EVALUATED** the contributions acquired following the aforementioned meetings with the associations;

**HAVING HEARD** the Italian Competition Authority established pursuant to Law No 287 of 10 October 1990;

**HAVING OBTAINED** the opinion of the Data Protection Supervisor delivered on 23 May 2024;

**HAVING CONSULTED** the Council of State, which gave an opinion through the Consultative Section for legislative acts in the meeting of [•];

**ON THE PROPOSAL** of the Minister for Infrastructure and Transport and the Minister for Enterprises and Made in Italy;

## **HEREBY DECREES**

### **ARTICLE 1**

#### ***(Subject matter, scope and definitions)***

1. In implementation of the provisions of Article 10a, paragraph 8 of Decree-Law No 135 of 14 December 2018, converted, with amendments, by Law No 12 of 11 February 2019, this Decree governs the activity of technological platforms for intermediation between supply and demand for non-scheduled public car transport services, as referred to in Article 1(2) of the Framework Law, and the related use of new technologies, in order to ensure free and effective competition in the field of technological intermediation platforms, to promote the efficient performance of non-scheduled public transport services and to facilitate the matching of operators offering and requesting non-scheduled public transport services, in compliance with the principles set out in Article 1 of Law No 21 of 15 January 1992.
2. The following definitions and their explanations are used in this decree:
  - a) *'Framework Law'*: Law No 21 of 15 January 1992 on the "Framework Law for the transport of passengers by non-scheduled public car services";
  - b) *'Technological platforms'*: the infrastructures that provide the services and technological tools, including through the internet, for carrying out the intermediation activity, as defined pursuant to this Decree;
  - c) *'Intermediation activities'*: activities aimed at facilitating the matching of supply and demand for non-scheduled public car services through the conclusion of intermediation contracts both with the user and with operators of non-scheduled public transport services;
  - d) *'Taxi services'*: non-scheduled local public transport services by taxi offered by a person authorised under the framework law, to meet specific requests from a non-

differentiated user, by means of which the driver carries the user of the service from one place to another, carried out with the vehicles referred to in Article 1(2)(a) of the framework law, and carried out in compliance with the provisions of the national and regional legislation in force;

- e) '*Rental with driver services*': non-scheduled local public transport services by means of a rental with driver service provided by an authorised person within the meaning of the framework law, to meet specific reservations from different users, by means of which the carrier carries the user of the service from one place to another, carried out with the vehicles referred to in Article 1(2)(b) of the framework law and carried out in compliance with the provisions of the national and regional legislation in force;
- f) '*Services*': taxi services and rental with driver services;
- g) '*Taxi carrier*': a person authorised by a municipality to operate a taxi service and registered in the national public digital register established at the Data Processing Centre of the Ministry for Infrastructure and Transport, pursuant to Article 10a, paragraph 3, of Decree-Law No 135 of 2018, converted, with amendments, into Law No 12 of 11 February 2019;
- h) '*Rental with driver carrier*': the person authorised by a municipality to carry out a rental with driver service and registered in the national public digital register established at the Data Processing Centre of the Ministry for Infrastructure and Transport, pursuant to Article 10a, paragraph 3, of Decree-Law No 135 of 2018, converted, with amendments, into Law No 12 of 11 February 2019;
- i) '*Carriers*': taxi carriers and rental with driver carriers;
- l) '*Driver*': the driver, registered in the register of drivers referred to in Article 6 of the Framework Law, who performs taxi services or rental with driver services in compliance with the licence or authorisation of which he is the holder or as a subordinate or sub-subordinate employee, under a management contract referred to in Article 10 of Law No 21 of 15 January 1992, or as a family member of a taxi or rental with driver carrier;
- m) '*User*': the person who, through access to a technological platform, books a non-scheduled public transport service or concludes a transport contract also for third parties carried out in the manner of non-scheduled public transport services;
- n) '*Undifferentiated user*': users who cannot be selected by the driver at the time of acceptance of the individual transport service;
- o) '*Differentiated users*': the users selected by the carrier at the time of acceptance of the rental with driver booking or of the individual rental with driver transport service;
- p) '*Request for intermediated services*': the user's request, made through technological platforms, for a taxi or rental with driver service relating to a given journey and at the first available departure time or at a departure time predetermined by the user;

- q) ‘*Managing entity*’: the undertaking carrying out intermediation activities to facilitate the matching of demand and supply of non-scheduled public car services through a technological platform and which is the controller within the meaning of Article 9;
- r) ‘*Platform owner*’: the undertaking that owns a technological platform.

## **ARTICLE 2**

### ***(Common principles)***

1. The activity of intermediation through a technological platform between supply and demand for non-scheduled public car services shall be carried out in compliance with the following principles:
  - a) principle of neutrality: the exercise of the intermediation activity and the management of technological platforms may not constitute a means of circumvention or infringement by individual carriers of the provisions of the framework law, of the national legislation in force, as well as of the individual regional regulations in force in the respective territories in which those carriers carry out their activity;
  - b) principle of typicality: the booking or assignment of individual transport services takes place in compliance with the different characteristics of taxi and rental with driver services identified by the framework law, by the national legislation in force, as well as by the individual regional regulations in force, ensuring, in relation to each booking, that the identification of the type of non-scheduled public service is carried out exclusively on the basis of the user’s choice;
  - c) principle of territoriality: bookings are allocated to carriers by intermediary platforms in compliance with the territorial constraints identified by the Framework Law taking into account the different characteristics of taxi and rental with driver services, in accordance with Articles 3, 4(1), 5(1), and 11 of the Framework Law;
  - d) principles on the protection of personal data: the processing of personal data underlying the operation of the intermediation platform complies with the principles set out in Articles 5, 24 and 25 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016;
  - e) principle of equal access to the platform: access to the platform’s services must be offered on a level playing field and on a non-discriminatory basis to users, drivers, and carriers.

## **ARTICLE 3**

### ***(Organisation and functioning of technological platforms)***

1. Managing entities of technological platforms shall act as intermediaries between the demand and supply of non-scheduled public transport services operated by carriers. The intermediation activity carried out by each technological platform may concern exclusively the taxi service or the rental with driver service or, jointly, both services.
2. The managing entity is responsible for the organization, as well as for the management of the intermediation activity carried out through technological platforms.
3. The contracts concluded between managing entities and users for the conclusion of a transport

contract through the use of technological platforms relate exclusively to the manner in which the intermediary activity is carried out. Where the contract of transport is concluded through the use of technological platforms, it shall be concluded between the user and the carrier.

4. The payment of the charge for the transport service and for any share relating to the intermediation activity shall normally be made by the user, in a single payment, to the managing body or to the carrier, without prejudice to the possibility that the two services may be paid separately to the managing body and to the carrier, where provided for in the contracts referred to in paragraph 3. In the contracts referred to in paragraph 3 for taxi services, the fee for the transport service may not exceed that provided for by the charges set in the relevant territorial area.
5. Invoicing and issuing of the receipt for transport services shall be carried out by the operator or the carrier, taking into account the methods of payment for the service defined pursuant to paragraph 4. The user is always guaranteed the possibility to pay for the service using electronic payment instruments.

#### **ARTICLE 4**

##### ***(Specific rules for the intermediation of taxi services)***

1. For the purposes of the intermediation of taxi services, technological platforms shall address requests for transport services to taxi carriers in accordance with the provisions of Article 2(1) and (2), Article 5(1)(b) and (c) and Article 11(1) and (2) of the Framework Law.
2. Technological platforms shall ensure that the allocation of taxi services takes place indiscriminately among individual taxi carriers, without any distinction based on any additional services performed by taxi carriers at the benefit of the managing entities or on criteria other than those established by the legislation in force, without prejudice to specific needs expressed by the user at the time of the request for the individual service that can only be met through the use of vehicles with specific characteristics, in compliance with the provisions of Article 9.
3. Managing entities adopt operating methods of the technological platform suitable for ensuring that, even in the case of requests for taxi services referring to a departure time predetermined by the user himself, the intermediated services are allocated to taxi carriers only within the time frame of the respective service shifts provided for by the competent administrative authorities and that the communication of the service request is forwarded to the taxi carrier as soon as it is physically carried out. Managing entities shall take appropriate measures to ensure that the user's destination is communicated to the taxi carrier only at the time of the user's pick-up and that the estimated charge is not communicated to the carrier. The estimated charge for the taxi service may be communicated to the user, without prejudice to variations related to traffic conditions and other variables affecting the determination of the cost of the service.
4. The technological platforms do not replace the taximeter, and the managing entities cannot apply to users, for the performance of individual taxi services, amounts different from those provided for by the public tariffs in force in the reference territorial area.
5. For taxi carriers, in accordance with the provisions of Article 9, the technological platform can inform the user, by activating the geolocation function, of the real-time position of the taxi

carrier and the estimated time of arrival at the pick-up point after the assignment of the service to the relevant carrier.

## **ARTICLE 5**

### ***(Specific rules for the intermediation of rental with driver services)***

1. The technological platforms address requests for rental with driver services at the depots or premises of participating carriers, pursuant to Articles 3(3) and 11(4) of the Framework Law, for the purposes of the subsequent identification of the carrier in compliance with the provisions of Article 3(1) and (2) as well as Article 11(3) and (4) of the Framework Law.
2. Rental with driver carriers accept service requests sent to the relevant depots or premises in compliance with the obligations to fill in the service sheet, as provided for by the decree adopted pursuant to Article 11(4) of the Framework Law. In the case of requests for rental with driver services referring to the first available departure time, the carrier shall indicate a user pick-up time compatible with the transfer times from the depot or, in the case of departure from a place other than the depot, not less than 20 minutes, in accordance with the Decree adopted pursuant to Article 11(4) of the Framework Law.
3. For rental with driver carriers, in accordance with the provisions of Article 9, the technological platform can make available to the user, through activation of the geolocation function, the real-time position of the rental with driver carrier and the estimated time of arrival at the pick-up point only after the service has been assigned to the relevant carrier.

## **ARTICLE 6**

### ***(Rules for technological platforms jointly addressing the taxi service and the rental with driver service)***

1. Without prejudice to compliance with the provisions of Articles 4 and 5, technological platforms that carry out intermediation activities jointly concerning taxi services and rental with driver services adopt appropriate mechanisms to ensure that, before sending each request for an intermediated service, the user exercises an express option of the taxi or rental with driver service that they intend to activate for the transport service being intermediated.
2. The arrival time of the taxi or rental with driver carrier and the estimated charge for the service are communicated to the user only upon completion of the option carried out by the user in accordance with paragraph 1.

## **ARTICLE 7**

### ***(Registration of managing entities)***

1. Within the Data Processing Centre of the Ministry for Infrastructure and Transport, a specific section is established for the registration of managing entities. The technical procedures for entry in the register shall be regulated by a specific decision of the responsible Director-

General of the Ministry for Infrastructure and Transport. This measure shall be adopted within 30 days of the publication of this Decree in accordance with Article 10(1).

2. Registration takes place upon submission of the application to the Data Processing Centre of the Ministry for Infrastructure and Transport, accompanied by the replacement declaration made pursuant to Articles 46 and 47 of Presidential Decree No 445 of 28 December 2000, signed by the legal representative certifying:
  - a) the personal or corporate data of the managing entity;
  - b) the list of participating carriers with the details of their registration in the section of the national public digital register set up at the same Data Processing Centre, pursuant to Article 10a, paragraph 3, of Decree-Law No 135 of 2018, converted, with amendments, into Law No 12 of 11 February 2019;
3. The application referred to in paragraph 2 shall be accompanied by a unilateral act by which the managing entity undertakes to comply with the obligations and conditions for carrying out the intermediation activity laid down in this Decree. Managing entities shall report on a quarterly basis any changes in the list of participating carriers.
4. Registration shall be completed by the managing entity prior to the activation of the technological platform, without prejudice to the provisions of Article 10(2). Failure to comply with the principles and provisions contained in this Decree shall result in the cancellation of the managing entity from the specific section of the register referred to in this Article.

## **ARTICLE 8**

### ***(Obligations of managing entities)***

1. Managing entities:
  - a) they are constituted in accordance with the legislation of a Member State of the European Union and have their registered office, central administration, or principal place of business within the Union;
  - b) verify, also by means of a substitute declaration made by the carriers participating in the technological platform pursuant to Articles 46 and 47 of Presidential Decree No 445 of 28 December 2000, the existence and validity of the authorisation certificates entitling the same carriers to carry out non-scheduled public car services and acquire the details of the relevant entry in the register referred to in Article 10a, paragraph 3 of Decree-Law No 135 of 14 December 2018, converted, with amendments, into Law No 12 of 11 February 2019;
  - c) in cases where the technological platform provides for the direct communication to the user of the identification data of the taxi or rental with driver carrier, this communication includes the license or authorisation number, the municipality that issued the authorisation, and the license plate of the vehicle. These data are made available to the user, in compliance with the provisions on the protection of personal data, up to 72 hours after the end of the individual service;
  - d) promote, also using the information and complaints received from users, the quality of the

service, in compliance with the quality standards of service set by the competent authorities for the relevant type of services;

- e) keep records for one year of each contract concluded with users for taxi services or rental with driver services, so as to make it possible to examine any malfunctions and to follow up on users' complaints;
  - f) ensure that the user, before the start of the transport service covered by the contract concluded with the carrier, can interact by means of telephone communication tools or other technological tools with the driver;
  - g) ensure that the data referred to in point (e) are available and accessible to the user following an IT authentication procedure on the technological platform, up to 72 hours after the end of the transport service covered by the contract concluded with the carrier;
  - h) operate on behalf of the individual carrier an assistance service with timely feedback regarding the transport services covered by the transport contracts concluded through the technological platform, via the same platform;
  - i) publish on the technological platform the terms of service, including those relating to the exercise of consumer protection rights, as well as the information on the processing of personal data in compliance with current rules;
  - l) in the performance of the intermediation activity and in the management of technological platforms, comply with the legislation in force on the protection of personal data, also ensuring the security and protection of communications, as well as, in the phases of the processing where identification is not directly necessary, the anonymity of the user.
2. The Ministry for Infrastructure and Transport and the Ministry for Enterprises and Made in Italy may access the carriers' archive and the contract archive for the performance of their respective functions after aggregation and anonymisation by platform managing entities and may also use the relevant data through third parties authorised by them for sector analysis, in compliance with the provisions of Article 9.

## **ARTICLE 9**

### *(Processing of personal data)*

1. The managing entities are the controllers of the processing of personal data carried out for the purpose of conducting intermediation activities aimed at facilitating the matching of demand and supply of non-scheduled public transport services through a technological platform. The data controllers shall ensure that the processing is carried out in compliance with the provisions in force concerning the protection of personal data referred to in Regulation (EU) 2016/679 and Legislative Decree No 196 of 2003 laying down the 'Personal Data Protection Code' and that it is carried out solely for the purposes of carrying out the activities provided for in this Decree.
2. Managing entities of digital infrastructures, cloud service providers and other parties involved in the processing of personal data shall act as processors within the meaning of Article 28 of Regulation (EU) 2016/679. These subjects adopt appropriate technical and

- organizational measures to ensure timely and adequate information of the data controllers in the event of a personal data breach, pursuant to Article 33(2) of Regulation (EU) 2016/679.
3. The use of other data processors by the subjects referred to in paragraph 2 shall be governed in accordance with Article 28(2) and (4) of Regulation (EU) 2016/679, providing for technical and organisational measures to provide data controllers with appropriate tools to monitor the activities carried out under their responsibility.

## **ARTICLE 10**

### ***(Final provisions)***

1. This Decree shall be published in the Official Journal of the Italian Republic and shall take effect on the thirtieth day following its publication.
2. At the time of first application, the managing entities shall complete the application for registration referred to in Article 7(2) within 90 days of the date of entry into force of this Decree.