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His Excellency
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Subject: Notification 2025/85/IT

Draft Decree of the President of the Council of Ministers establishing the “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”

Delivery of a detailed opinion pursuant to Article 6(2) of Directive (EU) 2015/1535 of 9 September 2015

Delivery of comments pursuant to Article 5(2) of Directive (EU) 2015/1535 of 9 September 2015

Sir,

As part of the notification procedure provided for in Directive (EU) 2015/1535 ⁽¹⁾, the Italian authorities notified to the Commission on 12 February 2025 the draft Decree of the President of the Council of Ministers establishing the “*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*” (hereinafter referred to as “the notified draft”).

According to the notification message, the notified draft aims at regulating the activity of technological platforms for intermediation between supply and demand for non-scheduled public car services (taxi and Private Hiring Vehicles- “PHV”) and the related

¹) 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 rules on Information Society services, OJ L 241 dated 17.9.2015, p. 1.

use of new technologies. In particular, according to the notified draft, this activity of intermediation through technological platforms must be carried out in compliance with the principles of neutrality, typicality, territoriality and equal access to the platform by users, drivers and carriers. In addition, the notified draft provides for the registration of platforms in a public register and identifies uniform requirements and obligations for operators, with the primary aim of ensuring that the use of platforms is carried out in accordance with the regulatory constraints on the conditions for the provision of taxi and PHV services: the mandatory or non-mandatory nature of the service; the differentiated or undifferentiated nature of the users; the territorial scope of reference; the different scheme for determining the price of the transport service.

The notified draft moreover entrusts the Ministry for Infrastructure and Transport and the Ministry for Enterprises and Made in Italy with the supervision and enforcement of the notified draft.

In the context of the notified draft, the Commission addressed to the Italian authorities a request for supplementary information on 3 March 2025 to obtain clarifications on the provisions of the notified draft. The answers provided by the Italian authorities on 26 March 2025 are taken into account in the following assessment to the extent that they clarified the purpose of the draft.

The examination of the relevant notified provisions led the Commission to issue the following comments.

1. Introduction

In their replies to the request for supplementary information sent by the Commission services, the Italian authorities consider that, in accordance with the judgement of the Court of Justice of the European Union (“CJEU”) in case C-434/15 ⁽²⁾, the services by the technological platforms concerned by the notified draft provide transport activities and cannot be included within the scope of the provision of information society services.

However, the Commission highlights that, despite the replies provided by the Italian authorities, the Italian authorities did indeed notify the draft under the procedure provided for in Directive (EU) 2015/1535, as falling under the scope of technical

²) Case C-434/15, *Asociación Profesional Élite Taxi v Uber Systems Spain SL*, ECLI:EU:C:2017:981. In its judgement the CJEU based its reasoning on the specific characteristics of the service at stake, which may not be applicable to all the service providers under the scope of the notified draft. The service at stake in that judgement was the UberPop business model, where Uber matched non-professional drivers providing passenger transport services on demand with unlicensed cars with passengers. See in particular:

“38 In a situation such as that with which the referring court is concerned, where passengers are transported by non-professional drivers using their own vehicle, the provider of that intermediation service simultaneously offers urban transport services, which it renders accessible, in particular, through software tools such as the application at issue in the main proceedings and whose general operation it organises for the benefit of persons who wish to accept that offer in order to make an urban journey.

39 In that regard, it follows from the information before the Court that the intermediation service provided by Uber is based on the selection of non-professional drivers using their own vehicle, to whom the company provides an application without which (i) those drivers would not be led to provide transport services and (ii) persons who wish to make an urban journey would not use the services provided by those drivers. In addition, Uber exercises decisive influence over the conditions under which that service is provided by those drivers. On the latter point, it appears, *inter alia*, that Uber determines at least the maximum fare by means of the eponymous application, that the company receives that amount from the client before paying part of it to the non-professional driver of the vehicle, and that it exercises a certain control over the quality of the vehicles, the drivers and their conduct, which can, in some circumstances, result in their exclusion.”

measures applicable to information society services ⁽³⁾. The Commission underlines that the nature of such services and the applicability of certain EU legislation depends on the specific modalities of the service in question and must be assessed on a case-by-case basis ⁽⁴⁾. In principle, the technological platform providing intermediation activities could be acting as a third party which offers online booking services disjoint from the provision of transport services as such. For example, the activity of platforms for intermediation could be limited to listing taxi services and PHV services available to the consumers, without being involved in the transport service as such. It should be noted that several stakeholders have submitted their observations on the notified draft ⁽⁵⁾.

Hence, and in as much as the notified draft sets requirements for information society services as described below, these provisions have been assessed against Directive 2000/31/EC ⁽⁶⁾ (hereinafter “the Directive on electronic commerce”). Provisions imposing obligations on online platforms should also be checked against Regulation (EU) 2022/2065 (the Digital Services Act, hereinafter “the DSA”) ⁽⁷⁾. However, the Commission considers that, based on the currently available information, it is not in a position to assess this question with a sufficient degree of certainty.

In addition, the notified draft, insofar as it governs business-to-consumer contracts for taxi services and car rental with driver services, concluded on intermediary platforms, has been assessed against Directive 2011/83/EU (hereinafter “Consumer Rights Directive” or “CRD”) ⁽⁸⁾.

2. Detailed opinion

2.1. Assessment in light of Directive 2000/31/EC

a) Applicability of Directive 2000/31/EC

First, as regards the personal scope of the notified draft, as described in the notification message and in the explanatory note accompanying it, the notified draft provides obligations on the activity of technological platforms for intermediation between supply and demand for non-scheduled public car services (taxi and PHV) and the related use of

³⁾ The Court dealt with the question of whether or not there was a duty to notify certain measures in its judgement of 10 April 2018, *Criminal proceedings against Uber France*, Case C-320/16, EU:C:2018:221.

⁴⁾ By contrast to the two previously mentioned judgements concerning UberPop, in the Star Taxi App case, the Court decided that the online intermediation service provided by Star Taxi App consists in an ‘add-on’ to a pre-existing service, which is not essential for the provision of the underlying (transport by taxi) service and cannot be considered as an integral part of the underlying transport (by taxi) service: in that case, connecting professional taxi drivers with their customers was an information society service (judgment of the Court of 3 December 2020, *Star Taxi App SRL v Unitatea Administrativ Teritorială Municipiul București prin Primar General and Consiliul General al Municipiului București*, Case C-62/19, EU:C:2020:980).

⁵⁾ The contributions are publicly available under the following link: [Notification Detail | TRIS - European Commission](#).

⁶⁾ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce), OJ L 178, 17.7.2000, p. 1-16.

⁷⁾ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act), OJ L 277, 27.10.2022, p. 1-102.

⁸⁾ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council.

new technologies. The notification message and the explanatory note further explain that the notified draft aims to ensure that the activity of the technological platforms is carried out under the aegis of the current legislation, thus ensuring that the use of the platforms is carried out in compliance with the regulatory constraints on the conditions for carrying out taxi and PHV (or, in Italy, “NCC”) services and establishing, in particular, the obligation on the platforms to register in a public register with a view to identifying requirements and obligations for the managing entities.

According to Article 1(2) letters b) and q) of the notified draft, ‘Technological platforms’ are defined as *“the infrastructures that provide the services and technological tools, including through the internet, for carrying out the intermediation activity”*, while ‘Managing entity’ is defined as *“the undertaking carrying out intermediation activities to facilitate the matching of demand and supply of non-scheduled public car services through a technological platform”*.

Therefore, to the extent that certain provisions of the notified draft concern intermediation activities, they would apply to providers of information society services within the meaning of Article 1(1)(b) of Directive (EU) 2015/1535 and thus also within the meaning of Articles 1 and 2 of Directive 2000/31/EC ⁽⁴⁾, insofar as they fulfil the conditions set out therein.

Second, concerning the material scope of application of the notified draft: the provisions of the notified draft lay down requirements applicable to, among others, providers of information society services which intermediate between supply and demand for non-scheduled public car services.

In particular, under Articles 4 to 8 of the notified draft, technological platforms qualifying as providers of information society services would be required to:

- verify the existence of the relevant PHV or taxi licenses and provide users with the identification data of the relevant PHV or taxi, and this information should remain available to users for 72 hours after the trip;
- register with the Ministry of Transportation;
- display the price of the trip to the user only after the user has opted for the taxi or PHV service, while the price of the trip can be displayed to the taxi driver only once the taxi is at the pick-up location;
- display to the user, for both PHV and taxi drivers, the price or the estimated price of the service and the estimated time of arrival of the driver only after the user has been assigned to the relevant carrier;
- ensure that the user can interact by means of telephone communication tools or other technological tools with the driver;
- operate on behalf of the individual carrier an assistance service with timely feedback regarding the transport services;
- publish on the technological platform the terms of service, including those relating to the exercise of consumer protection rights;
- keep records for one year of each contract concluded with users for taxi services or rental with driver services;

Finally, failure to comply with the above-mentioned provisions of the notified draft would result in the cancellation from the specific section of the register (Article 7(4)), and therefore the inability to continue offering online intermediary services in Italy.

The supervision and enforcement of the above-listed obligations is entrusted to the Italian Ministry for Infrastructure and Transport and the Ministry for Enterprises and Made in Italy.

According to Article 2(h) and (i) of Directive 2000/31/EC, the coordinated field concerns requirements with which the service provider has to comply with in respect of *inter alia* the pursuit of the activity of an information society service, such as requirements concerning the behaviour of the service provider. Therefore, the provisions of the notified draft fall within the coordinated field of Directive 2000/31/EC and have been analysed in light of that Directive.

b) Article 3(1), (2) and (4) of Directive 2000/31/EC

The Commission notes that the provisions of the notified draft apply to providers of information society services offering their services in Italy, irrespective of the Member State of establishment of those providers. In particular, Article 8 sets out that the undertaking carrying out intermediation activities to facilitate the matching of demand and supply of non-scheduled public car services through a technological platform are established in accordance with the legislation of a Member State. As a result, the provisions of the notified draft apply to providers of information society services established in other Member States when offering their services in Italy.

In this respect, the Commission recalls that Article 3(1) and (2) of Directive 2000/31/EC establishes the “home state control principle” according to which information society services may only be regulated at the source of their activity. Providers of such services are therefore, as a general rule, subject to the law of the Member State in which the providers of these services are established.

Article 3(4) of Directive 2000/31/EC lays down the circumstances and procedures under which a Member State of destination, i.e. the Member State in which information society services are provided by a provider established in another Member State, may derogate from the home state control principle where necessary, for the reasons exhaustively listed in Article 3(4)(a) of the Directive and in compliance with the substantive and procedural requirements set out in its Article 3(4)(a) and (b). The Commission draws the attention of the Italian authorities to the recent case law of the Court of Justice, which recalls the limits of relying on Article 3(4) of Directive 2000/31/EC for this purpose. According to that case law, measures of general and abstract application that are not limited to a given information society service, such as those contained in the provisions of the notified draft, cannot benefit from the exemption provided for by Article 3(4) of Directive 2000/31/EC.⁽⁹⁾ Therefore, in the Commission’s view, the notified draft constitutes such a measure of general and abstract application that will apply indistinctively to domestic and foreign providers of information society services in Italy. In any event, based on the information available to it, the Commission is not able to verify whether and how the

⁹⁰ Judgment of 9 November 2023 in Case C-376/22, ECLI:EU:C:2023:835, paragraphs 59 and 60: “59. On the contrary, the consequence of such an interpretation is that Member States are not, as a matter of principle, authorised to adopt such measures, so that verification that those measures are necessary to satisfy overriding reasons in the general interest is not even required. 60. Having regard to all the foregoing considerations, the answer to the first question must be that Article 3(4) of Directive 2000/31 must be interpreted as meaning that general and abstract measures aimed at a given category of information society services described in general terms and applying indiscriminately to any provider of that category of services do not fall within the concept of ‘measures taken against a given information society service’ within the meaning of that provision.” See also Judgment of 30 May 2024 in joint cases *Airbnb Ireland UC and Amazon Services Europe Sàrl v Autorità per le Garanzie nelle Comunicazioni*, C-662/22 and C-667/22, EU:C:2024:432, paragraph 70.

Italian authorities intend to ensure that both the substantive and procedural requirements set out in Article 3(4) of Directive 2000/31/EC are or could be fulfilled.

For the reasons set out above, the Commission hereby issues a detailed opinion pursuant to Article 6(2) of Directive (EU) 2015/1535.

The Commission reminds the Italian authorities that, in accordance with this Article, the issuing of a detailed opinion entails that the Member State which is the author of the draft technical regulation concerned is required to postpone its adoption for 4 months from the date of its notification. This deadline therefore ends on 13 June 2025.

Furthermore, the Commission draws the attention of the Italian authorities to the fact that, under this provision, the Member State to which a detailed opinion is addressed is required to inform the Commission of the action it intends to take on such an opinion.

If the Italian authorities fail to comply with the obligations laid down in Directive (EU) 2015/1535 or if the text of the notified draft under consideration is adopted without taking account of the objections raised or is otherwise contrary to EU law, the Commission reserves the right to initiate proceedings against Italy in accordance with Article 258 of the TFEU.

3. Comments

3.1. Assessment in light of Directive 2000/31/EC

The notified draft imposes on providers of online intermediary services, in as much as they would qualify as managing entities under the notified draft, an obligation to register with the Data Processing Centre of the Ministry for Infrastructure and Transport (Article 7 of the notified draft). This registration shall be completed prior to start offering the service in the Italian territory, or within 90 days for service providers already operating upon the entry into force of the notified draft and shall be done in accordance with a decision to be adopted by the responsible Director General of the Ministry for Infrastructure and Transport within 30 days of the publication of the notified draft.

The Commission notes that Article 4(1) of Directive 2000/31/EC establishes a general prohibition preventing Member States from making the taking up and pursuit of the activity of an information society service provider subject to prior authorisation or any other requirement having equivalent effect. Consequently, the Commission would like to remind that the registration obligation applicable to providers of information society services pursuant to Article 7 of the notified draft should not be designed or implemented in a way that can amount to an authorisation regime or other requirements having equivalent effect within the meaning of Article 4(1) of Directive 2000/31/EC.

3.2. Assessment in light of Regulation (EU) 2022/2065

In the request for supplementary information of 3 March 2025, the Commission services addressed questions to the Italian authorities on the interaction of the notified draft with the DSA. However, the Italian authorities did not reply exhaustively to all the questions and the Commission considers that a degree of uncertainty remains regarding the precise scope of the services covered by the notified draft.

As a result, the Commission is not in a position to determine whether the notified draft or its implementation would interfere with the full harmonisation effect of the DSA. In that context, the Commission would like to note that, inasmuch as the notified draft would pursue the same objectives as the DSA, and to the extent that it would introduce requirements applicable to online platforms including those which would constitute providers of online platforms allowing consumers to conclude distance contracts with traders, in accordance with Chapter 3, Section 4 of the DSA, such services would be covered by the full harmonisation effect of the DSA. Being a regulation, the DSA does not allow for national requirements unless otherwise expressly provided.⁽¹⁰⁾ This is because, pursuant to Article 288 TFEU, regulations are directly applicable throughout the Union. Unlike in the case of directives, national implementing measures are therefore not permitted in relation to regulations, unless the regulation itself leaves it to the Member States to adopt the necessary legislative, regulatory, administrative and financial measures to ensure the effective application of the provisions of that regulation.⁽¹¹⁾ In addition, any such national laws would in any case need to remain compatible with the horizontal framework set out by the DSA, including its Articles 6 and 8.

Given the fact that, on the basis of the information made available in the context of the current notification, the Commission is not in a position to make a definite assessment on the compatibility of the notified draft with the DSA, the above remarks are without prejudice to any possible action that the Commission may undertake in the future.

3.3. Assessment in light of Directive 2011/83/EU

The notified draft governs taxi services and car rental with driver services. Business-to-Consumer contracts for such services, including when concluded on intermediary platforms, are contracts for passenger transport services within the meaning of the Directive 2011/83/EU (hereinafter the “CRD”).

While contracts for passenger transport services are in principle excluded from the scope of the CRD, certain articles of the CRD apply to them in line with Article 3(3)(k) of the CRD.

Specifically, pursuant to Article 8(2) CRD, if a distance contract for passenger transport services to be concluded by electronic means places the consumer under an obligation to pay, the trader should provide the consumer with the pre-contractual information specified therein. Such information must be provided in a clear and prominent manner directly before the consumer places his/her order.

This information comprises: (i) the main characteristics of the services (Art. 6(1)(a) CRD); (ii) the total price of the services inclusive of taxes or where the nature of the services is such that the price cannot reasonably be calculated in advance, the manner in which the price is to be calculated, as well as, where applicable, all additional freight, delivery or postal charges and any other costs or, where those charges cannot reasonably be calculated in advance, the fact that such additional charges may be payable (Art. 6(1)(e) CRD); (iii) the duration of the contract, where applicable (Art. 6(1)(o) CRD); and (iv) where applicable, the minimum duration of the consumer’s obligations under the contract (Art. 6(1)(p) CRD).

Under Art. 6(1)(a) CRD, the trader must provide the consumer with information about the main characteristics of a product or service that the average consumer needs for

¹⁰() Case 40/69, Bollmann, EU:C:1970:12, para 4; Case 74/69, Krohn, EU:C:1970:58, paras 4 and 6; and Joined Cases C-539/10 P & C-550/10 P, Stichting Al-Aqsa, EU:C:2012:711, para 87 (on the risk of divergent definitions under EU and national law).

¹¹ ()Case C-606/10, ANAFE, EU:C:2012:348, para 72.

taking an informed transactional decision in accordance with Article 7 of the Unfair Commercial Practices Directive ⁽¹²⁾ (hereinafter the “UCPD”).

As also specified in the UCPD Guidance ⁽¹³⁾, such characteristics may encompass, in case of transport services, the estimated travel time.

The notified Italian decree specifies in its articles 4(5) and 5(3) that the estimated time of needed for the taxi or rental car with a driver to arrive at the pick-up point may only be displayed to the user after the user has been assigned to the relevant carrier (i.e. the taxi provider or the provider of the rental car with driver, respectively). Similarly, article 6(2) of the decree states that, if the platform provides intermediation services for both rental car with driver services and taxi services, the estimated time of arrival of the rental car with driver or of taxi may only be communicated after the consumer has expressed his/her choice for the specific type of service. Consequently, users would not see the available rental cars with driver or taxis nearby. As a result, they would not choose their transport service provider based on the expected arrival time of alternative service providers and the expected total travel time.

In addition to the foregoing, article 6(2) of the decree specifies that the estimated charge for the service may only be communicated after the consumer has expressed his/her choice for the specific type of service (i.e. a taxi or rental with driver service). It seems hence not possible for the consumer to choose the type of service based on the price.

It is not fully clear from the Italian decree whether the contract is deemed concluded, and the consumer’s obligation to pay arises, at the moment when the consumer confirms his/her choice for the “certain type of service” (according to the terminology of the decree), or rather following the choice of the type of service there is a subsequent step where the consumer expresses his/her willingness to place the order with the obligation to pay the specific service provider.

The Commission therefore invites the Italian authorities to ensure that the adopted final version of the notified draft duly obliges the respective passenger transport service providers to inform the consumers about the main characteristics of the service, that includes the expected arrival time, in accordance with Art. 6(1)(a) CRD, and the total price for the service in accordance with Art. 6(1)(e) CRD, immediately before the contracts with an obligation to pay are concluded by electronic means, as required under Article 8(2) CRD.

The Commission invites the Italian authorities to take into account the abovementioned comments.

¹²() Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council

¹³() Commission Notice – Guidance on the interpretation and application of Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market, C/2021/9320, OJ C 526, 29.12.2021

The Commission furthermore reminds the Italian authorities that once the definitive text has been adopted, they are required to communicate it to the Commission in accordance with Article 5(3) of Directive (EU) 2015/1535.

Yours faithfully,

For the Commission

Stéphane Séjourné
Executive Vice-President