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## The connected car: Towards an EU regulation ensuring effective and fair access to in-vehicle data

Connected and autonomous cars represent a great challenge for the EU automotive industry to confirm its world leader position. The increasing developments underline an urgent need to tackle the issue of data collection and ownership **at EU level** with a specific regard to the automotive sector.

Following the 2017 results of the study lead by the European Commission on access to in-vehicle data and resources<sup>i</sup>, MOBIVIA calls for a **clear** and **adequate** regulation at EU level to: (1) set up a **consumer-friendly solution in the relation with data ownership and data protection rules** and (2) pursue the adoption of **fundamental principles** that will be respected by all actors of the automotive sector. In consequence, it is essential to (3) legally ensure the use of a **technological solution** that will embody those guiding tenets and will thereby create a level playing field for all players on the market.

This means, in practical terms, that **MOBIVIA asks for a quickly-adopted EU regulatory provision eventually requiring the introduction of an on-board application platform with an open access for all actors**. This unique, innovation-centred solution would ensure that no single actor (i.e. manufacturers) benefits from a lack of binding guidelines to concentrate power emanating from data access restriction at the expense of consumer choice and innovation.

Moreover, despite the fact that the on-board solution can be presented as a long-term solution, **short-term inaction at EU level poses a severe risk both to fair competition and the mere respect of commonly agreed guiding principles** established by the Working Group n°6 'Access to in-vehicle resources and data' of the European Commission C-ITS platform (gathering several actors of the automotive market, including manufacturers)<sup>ii</sup>.

### **Proposal 1 – Setting up a consumer-friendly solution in the relation with data ownership and data protection rules**

Consumer protection is one of the founding tenets of the Internal Market: no exception should be made for connected cars. In its communication 'Building a European Data Economy'<sup>iii</sup>, the European Commission stated that drivers should have the freedom to choose a service based on accessing in-vehicle data to meet their specific needs.

In this respect, MOBIVIA recalls two of the guiding principles underlined in December 2015 by the Working Group n°6 of the European Commission C-ITS platform.

Following those principles:

- The owner of the vehicle should give **his consent** to the use of data
- For privacy reasons, the driver must enjoy **protection of data** generated by its car journeys

Moreover, and supporting these principles, in February 2016 the *Fédération Internationale de l'Automobile* (FIA) also published a report<sup>iv</sup> based on a survey carried out in the EU about connected cars where 90% of the respondents say data generated by vehicles belongs to the driver and that in the case of a breakdown, 92% believe they have the right to choose where they wish to repair their vehicle.

There is therefore a clear need to put consumer choice at the core of the relationship between the rules on data ownership and data protection. Indeed, the study on access to in-vehicle data and resources points out the risk that manufacturers, as *de facto* owners and controllers of in-vehicle data, could distort competition and stifle innovation by limiting data access to service/application providers, eventually limiting consumer choice without his/her consent.

Somehow the EU is gradually moving towards a regulatory framework that considers the needs of European citizens as evidenced by a principle enshrined in the latest Reform of EU data protection rules: the 'right to data portability'<sup>v</sup>. Indeed, Article 20 of the regulation has introduced a right enabling data subjects to transfer their personal data in a commonly-used format from one data controller to another without hindrance from the original controller.

There is a need **to go further** and **to apply those fundamental assumptions to the in-vehicle data scheme**. Data generated from the use of a vehicle – such as speed, location, general conditions of the vehicle, etc. – belongs to the owner and thus data collected requires an adequate level of protection.

The owner of the vehicle must be advised of the information he provides and should be able **to choose to whom he gives access to such data** – e.g. through an opt-in system allowing for the driver to choose whether the car can collect his information before starting the ride. This right is a precaution to consumer protection as it allows consumers to select their service providers.

## ***Proposal 2 – Pursuing the adoption of fundamental principles for the automotive digital transition***

As many automotive businesses and activities are gradually shifting towards innovative forms of mobility and new ways of providing services for car users, three fundamental principles must be respected to ensure Europe a leader position within the digital transformation.

Failure to comply with the following principles would become a threat to the whole industry, to its worldwide competitiveness as well as to the millions of jobs linked to it:

- **Freedom of Operation**
- **Freedom of Innovation**
- **Safety of People**

### ***Freedom of Operation***

To preserve and promote both entrepreneurship and existing or future jobs within the automotive sector, all service providers with professional qualifications must have equal access to data and resources of the vehicles. Moreover, in order to ensure fair competition, the aftermarket requires on-site access to data for maintenance, a remote access to data for preventive services and an access to in-vehicle driver interface for customer relationship.

### ***Freedom of Innovation***

Freedom of innovation means the right to enhance existing car technologies. Indeed, innovation within the aftermarket is key for rapid market adaptation to global issues and worldwide competition. It allows the entrance of new market players and the development of fresh initiatives. At the same time, it helps transforming the industry at a faster pace than the natural market fleet renewal.

### *Safety of People*

By advising and assisting motorists, the aftermarket sector contributes to better vehicle maintenance and greater driving safety. And, as safety is a topic that goes beyond any individual business interest, all stakeholders should collaborate to create secure and interoperable solutions. In this sense, car manufacturers and the aftermarket should define together the technical environment that is required for passenger safety and system security. This cannot be an exclusive or monopolistic area reserved to one of the parties only.

### ***Proposal 3 – Building a legislative framework enforcing a technical solution which allows equal access to vehicle data***

The conclusion of the EC study on access to in-vehicle data and resources is plain: the current legal framework could lead to the development of technical solutions that do not respect the commonly agreed guiding principles of the Working Group n°6 'Access to in-vehicle resources and data' of the C-ITS platform.

Evidence has been made in the very same group that genuine fair competition is only possible if, subject to the consent to data processing by the driver:

- All service providers are in an equal, fair, reasonable and non-discriminatory position;
- Standardised access comes to foster interoperability between different applications, notably regulatory key applications, and facilitates the common use of same vehicle data and resources.

Therefore, only one mandatory technical solutions can be considered and will enable a fair access for everyone: **An on-board application platform with an open access to all actors**

MOBIVIA acknowledges the legislative challenge facing the EU. However, it is clear that one needs to avoid situations where technical solutions are developed via private initiatives, consequently distorting the market before new rules are adopted.

Therefore, during the adoption phase of this new legislation, competition law must be strictly observed to prevent abuse of dominant position and should be in line with the digital evolution to avoid significant negative impacts by the time sanctions are taken. Standardising the way that data is made available should help in a smoother, fairer application of competition law.

### ***The EU must lead the way to the implementation of an on-board application platform with open access with open access for all actors***

The on-board application platform allows the uniform deployment of certified applications and their subsequent execution directly in the vehicle, including data access.

Either way, there is a fundamental need for the aftermarket to access the car data in a non-discriminatory manner compared to car manufacturers. This will only be possible with the creation of a robust EU regulatory framework that enforces a technological solution which is interoperable, standardised, secure and safe.

**The cost of the development of an on-board solution is often raised by manufacturers as a major issue. However, as indicated in the study on access to in-vehicle data and resources, the cost of this solution does not exceed the benefits from a fair access to data.**

Indeed, considering the long-term benefits of an on-board application platform, it is essential to go for it. MOBIVIA thus proposes to include the issue of investment in this sector at the highest political level and calls public actors to encourage manufacturers to invest in such solution via tailored actions to their attention. This would ensure that the EU keeps playing a major role in the international competition regarding the development of autonomous vehicles thanks to the sole market and consumer-friendly solution for data access and management, eventually promoting innovation in services to drivers.

## ANNEX

### The connected car: European context

Connected cars are already a reality of our everyday life but a great step forward was taken in 2015 when the European Parliament and the Council adopted Regulation 2015/758 making the eCall in-vehicle system mandatory for all new vehicles by 2018<sup>vi</sup>.

Regulation 2015/758 did not occur unexpectedly, and the European Commission has yet been working since years on telematics and connected cars. Currently, there are indeed various EU initiatives that can be mentioned such as the Cooperative Intelligent Transport Systems (C-ITS), the GEAR 2030 High Level Group and its final report<sup>vii</sup> (DG GROW), or more recently a Communication as well as a regulation proposal on the free flow of data<sup>viii</sup> (DG CONNECT).

However, this latter adoption brings the issue of in-vehicle data collection generated from the use of a vehicle to the fore as eCall regulation is the first act that officially places a telematics as a binding device for all cars sold in the EU.

Point is raised when we think that car manufacturers who install the telematics devices on their vehicles – whether an eCall system or another – are logically put in the first line because today, as the conceivers of the device, they are also the ones which have primary access to data collected (speed, location, oil level, general conditions of the vehicle, etc.).

On the one hand, this reality corresponds to a danger of locking consumers in the terms and conditions dictated by manufacturers – as it is currently the case with the use of smartphones in the telecommunication sector. On the other hand, it involves an inherent risk of market power abuse from the manufacturers if data collected is restricted for their sole use and is not – or partially – made accessible to other key players of the automotive sector such as aftermarket actors and service providers.

**In other words, there is a great chance of hindering the principles of fair competition and as a consequence a danger of decreasing consumer protection as well as freedom of choice.**

**In order to avoid such situation, safeguards should be established in order to quickly adopt the on-board solution described above in this position paper. Status quo is no longer feasible, and time has come for the elaboration of a proper regulatory framework.**

The elements pointed out in this position paper are backed by the recent study lead by the European Commission on access to in-vehicle data and resources. Along with several observations on the flaws of manufacturer-centred solutions and the inappropriateness of the current legal framework, the study presents strong arguments in favour of an on-board application platform.

**Once again, MOBIVIA stresses out the fact that even though this solution is depicted as the most favourable one in a long-term perspective, the risks for consumers are way too high to allow manufacturers to impose their own solution in the short term.**

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*About MOBIVIA:*

*International Group present in 19 countries, MOBIVIA is the European leader in multi-brand vehicle maintenance and equipment (with Norauto, A.T.U, Midas, Skruvat, Carter-Cash, Auto 5, Synchro Diffusion and Bythjul), serving over 30 million motorists.*

*For 45 years, the Group has been committed to offering its customers solutions increasingly tailored to their mobility needs: travel better, in a more accessible, cleaner, safer and more economical way. It is in this sense that in 2010 the Group created VIA-ID, a business incubator dedicated to new mobility: from urban mobility to shared mobility including connected car. Today MOBIVIA has more than 21,000 employees in 16 companies and six activities united by one mission: making mobility easier.*

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<sup>i</sup> In August 2017, the European Commission issued a report – following a legal and technical study lead by TRL – on the access to in-vehicle data and resources: <https://ec.europa.eu/transport/sites/transport/files/2017-05-access-to-in-vehicle-data-and-resources.pdf>.

<sup>ii</sup> The C-ITS platform published a report in January 2016 containing all working group's conclusions: <http://ec.europa.eu/transport/sites/transport/files/themes/its/doc/c-its-platform-final-report-january-2016.pdf>.

<sup>iii</sup> In January 2017, the European Commission presented its [Communication on 'Building a European Data Economy'](#) regarding the free flow of data and including some considerations about the access to data in various domains (such as the automotive sector).

<sup>iv</sup> FIA report is available through this link: [http://www.fiaregion1.com/en/fia\\_region\\_1/news/consumers-speak-out-on-data-protection-with-connected-cars.htm](http://www.fiaregion1.com/en/fia_region_1/news/consumers-speak-out-on-data-protection-with-connected-cars.htm).

<sup>v</sup> In April 2016, the European Parliament and the Council formally adopted the new General Data Protection [Regulation \(EU\) 2016/679](#) establishing a modern and harmonised data protection framework across the EU.

<sup>vi</sup> In April 2015, the European Parliament and the Council adopted [Regulation \(EU\) 2015/758](#) concerning type-approval requirement for the deployment of the eCall in-vehicle system.

<sup>vii</sup> The GEAR 2030 High Level Group was launched in January 2016 and includes a working group dedicated to the development of connected and automated driving. GEAR 2030 presented [guidelines](#) for Member States and stakeholders in October 2017.

<sup>viii</sup> The European Commission adopted a [Communication](#) on 'Building a European Data Economy' on January 2017 and also proposed a [draft regulation](#) of the EU free flow of non-personal data on the 13<sup>th</sup> of September 2017.