

The Consumer Voice in Europe

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for the Digital Age"  
European Commission  
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**Subject: Urgent need for a legislative proposal on access to in-vehicle data and functions**

Dear Executive Vice-President Vestager,

We are contacting you because of a growing concern within BEUC<sup>1</sup> and FIA European Bureau<sup>2</sup> about the lack of progress related to access to in-vehicle data, functions, and resources. We call on the European Commission to respect its commitment and propose a regulation as soon as possible. This proposal should enshrine principles allowing consumers to control and manage flows of the data that they generate while using a car and the innovative services related to its use (pay as you drive insurance schemes, information about repair and maintenance of spare parts, real-time traffic information, etc.).

The need to legislate has been clearly acknowledged by the European Commission itself. In February 2020, as part of its European Strategy for Data, it stated that it will review the current regulatory framework "to open it up to more car data-based services"<sup>3</sup>. The ambition has been repeated in the Sustainable and Smart Mobility Strategy in December 2020 (action point 52). The Strategy claimed that a new initiative would "propose a balanced framework guaranteeing fair and effective access to vehicle data by mobility service providers"<sup>4</sup>.

In both Communications, the European Commission committed to review the so-called "type approval" Regulation in 2021. A sector-specific legislation on access to car data is indeed long overdue. However, no decision on an actual revision of this regulation has been taken so far and the current workstream on the Data Act is not sufficient to solve the numerous issues faced by consumers.

<sup>1</sup> BEUC, the European Consumer Organisation, represents 46 national organisations across Europe.

<sup>2</sup> The FIA European Bureau represents 67 Motoring and Touring Clubs and their 36 million members from across Europe.

<sup>3</sup> European Commission, "A European strategy for data", Communication, 19 February 2020, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0066&from=EN>.

<sup>4</sup> European Commission, "Sustainable and Smart Mobility Strategy –putting European transport on track for the future", Communication, 9 December 2020, [https://eur-lex.europa.eu/resource.html?uri=cellar:5e601657-3b06-11eb-b27b-01aa75ed71a1.0001.02/DOC\\_1&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:5e601657-3b06-11eb-b27b-01aa75ed71a1.0001.02/DOC_1&format=PDF).

All stakeholders in the car market, including consumers, need a clear regulatory framework. If the Commission fails to deliver this framework, the risk is to let car manufacturers impose their preferred technical solutions to the detriment of the whole value chain.

Already in October 2019, BEUC raised concerns about this risk in a letter<sup>5</sup> calling on the Commission to scrutinise the “extended vehicle” model promoted by ACEA and its members. In this letter, BEUC pointed out at the competition issues posed by such a model and the associated risks of foreclosure, discrimination, and monopoly prices. Similarly, FIA European Bureau surveyed<sup>6</sup> European citizens, proposed a cybersecurity concept<sup>7</sup>, and quantified<sup>8</sup> the economic costs of failing to act, contributing to debunk vehicle manufacturers’ misleading arguments around liability<sup>9</sup> and data security.

Several other stakeholders have raised similar concerns: the risks of lock-in effects, should a technical solution on access to car data be developed by an actor having a dominant position, are high in the absence of an EU Regulation. More importantly, both the Joint Research Centre<sup>10</sup> and a 2017 study by TRL<sup>11</sup> clearly concluded that the extended vehicle model bears significant risks in terms of fair competition and data control from consumers. The European Data Protection Board also noted that most of car data can be considered personal, with a need to strictly observe notions of consent<sup>12</sup>.

Last year, the European Commission asked TRL to lead a new study on access to car data to which BEUC and FIA European Bureau responded. We are still waiting for the results to be published but we are confident that they would confirm the previous findings and favour a robust regulatory framework on access to in-vehicle data that ensures effective market competition, innovation, and true consumer choice. There is indeed a clear need for a centralised legislation on car data: the mere addition of “lighter” principles in several frameworks (Data Act, Mobility Data Space, ...) will only add complexity and lead to less clarity.

In our view the new initiative should:

- foster the development of consumer-centric innovation;
- allow drivers to object to the sharing of their personal data;
- ensure a high level of cybersecurity;
- offer consumers technical solutions to help them to control and manage their personal information, and exercise data portability rights;
- ensure effective competition in the market, offering consumers a real choice of products and services.

The EU needs to favour the deployment of a technical solution allowing fair access to vehicle data for third parties under the control of consumers (under principles already stated in the GDPR and the ePrivacy Directive), and subject to the “Separation of Duties” principle. While we acknowledge the technical challenges around each technology, any further delay in the adoption of a strong regulatory framework increases the risk to unfair practices (limited access to real-time data and functions, no direct communication with the driver, privileged access to certain stakeholders ...). This would also mean that competition law will only be able to address these unfair practices once the damage has materialized. Consumers would then enter lengthy litigation procedures which could prove to be too costly for them to engage.

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<sup>5</sup> BEUC, “Follow-up clean and smart mobility roundtable of 2 October 2019: the consumer perspective”, Letter to Commissioner Vestager, 11 October 2019, [https://www.beuc.eu/publications/beuc-x-2019-058\\_letter\\_to\\_commissioner\\_vestager.pdf](https://www.beuc.eu/publications/beuc-x-2019-058_letter_to_commissioner_vestager.pdf).

<sup>6</sup> FIA European Bureau, “My Car My Data” campaign, <https://mycarmydata.eu/>

<sup>7</sup> FIA European Bureau, study on On-Board Telematics Platform, <https://www.fiaregion1.com/study-on-board-telematics-platform-otp-security>

<sup>8</sup> FIA European Bureau, “Study on Economic Impact of Existing Data Access Models”, March 2019, <https://fiaregio1.com/study-on-economic-impact-of-existing-data-access-models/>

<sup>9</sup> FIA European Bureau, “Study on the Liability of ISPs when providing Repair and Maintenance under the S-OTP”, June 2021, <https://www.fiaregion1.com/wp-content/uploads/2021/06/FIA-Final-Report-ISPs-Liabilities-20210531.pdf>

<sup>10</sup> Joint Research Centre, “Access to digital car data and competition in aftersales services”, Digital Economy Working Paper 2018-06, <https://ec.europa.eu/jrc/sites/jrcsh/files/jrc112634.pdf>.

<sup>11</sup> TRL, Access to in-vehicle data and resources. Final Report”, 2017, <https://ec.europa.eu/transport/sites/default/files/2017-05-access-to-in-vehicle-data-and-resources.pdf>.

<sup>12</sup> European Data Protection Board, “Guidelines 1/2020 on processing personal data in the context of connected vehicles and mobility related applications”, 28 January 2020, [https://edpb.europa.eu/sites/default/files/consultation/edpb\\_guidelines\\_202001\\_connectedvehicles.pdf](https://edpb.europa.eu/sites/default/files/consultation/edpb_guidelines_202001_connectedvehicles.pdf).

Prevention is better than cure. We therefore ask the European Commission to submit to the European Parliament and Council, via co-decision procedure, an ambitious proposal on access to car data before the end of the year.

We stay at your disposal to discuss this issue further and to provide any information you might need.

Yours sincerely,

Monique Goyens  
Director General, BEUC

Laurianne Krid,  
Director General, FIA Region I

C/c: Ms Christiane Canenbley, Deputy Head of Cabinet