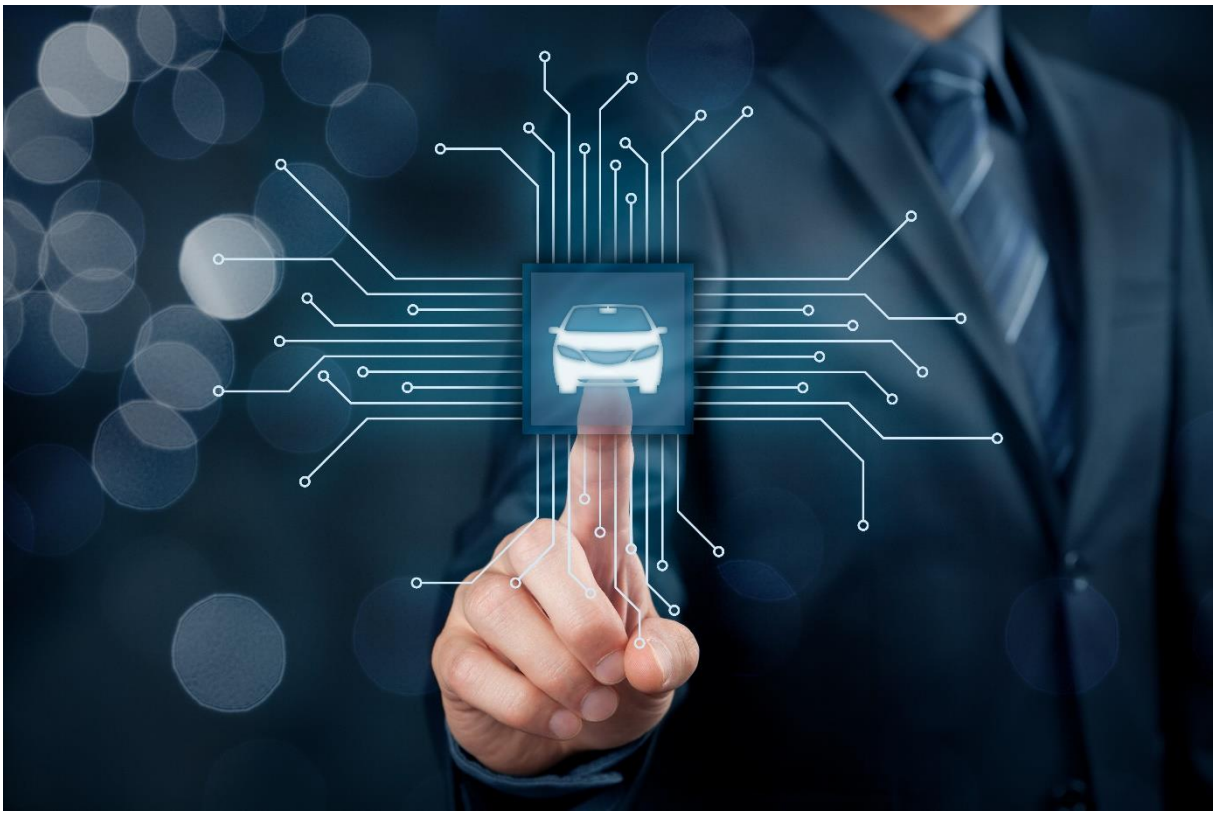
26/01/2022 | POSITION PAPER

FUTURE EU LEGAL FRAMEWORK FOR ACCESS TO IN-VEHICLE DATA



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Consultative Status Category II to the Economic and Social Council of the United Nations

1 - GENERAL REMARKS

Cita welcomes the report of the Transport Research Laboratory (TRL) study and the EU's further ambitions to establish a future legal framework for access to in-vehicle data.

CITA and several of our members participated in the stakeholder consultation on access to in-vehicle data and RMI[1] technical requirements update in November 2020 upon invitation of TRL and FKA. Based on the evaluation of the consultation, TRL presented three potential ways forward. Our position paper indicates the key requirements for a future framework within CITA.

2 - MOTIVATION TO REGULATE ACCESS TO IN-VEHICLE DATA

Vehicle safety, security and environmental compatibility must be assured throughout the lifetime of the vehicle, which increasingly depends on electronic components as well as software versions and AI algorithms.

Independent and trusted access to validated in-vehicle data and diagnostic functions for sovereign use cases are the necessary basis for efficient and independent evaluations, e.g., for type approval, roadworthiness testing, market surveillance or research.

This will ensure road safety and environmental compatibility of vehicles well beyond their initial life cycle. At the same time, consumer confidence in new and existing technologies is strengthened and the EU Member States can fulfil their duties to citizens, which include the protection of road users and their privacy, environmental protection, and road safety.

Sovereign use cases are currently not considered in today's technical implementations, which motivates CITA to propose a suitable concept for a future legal framework.

Considering the high degree of reliability of vehicle data for the application of sovereign use cases by authorities and entrusted services, a legal framework for remote access to in-vehicle data shall ensure independent and trusted access through the principle of "separation of duties".

[1] Repair and Maintenance

Consequently, the range and characteristics of available data and functions can only be limited by the technological design of the vehicle and not by a minimum data set. This principle shall be prescribed by law and be referenced in the official dictionary, as proposed in policy options 2 and 3 of the TRL report. Sovereign activities cannot rely on the self-regulation of the market.

3 - ASSESSMENT OF THE PROPOSED POLICY OPTIONS (PO)

3.1. PO1 - No legislative intervention

In 2018, the European Parliament called upon the Commission to make a legislative proposal to ensure fair access to in-vehicle data and resources[2].

In our view, the baseline option is ruled out from the outset, as it only represents the status quo, where OEMs are increasingly offering a limited set of in-vehicle data to third parties via the ISO 20078, the so-called 'Extended Vehicle' web interface.

Manifesting this without a legal regulation would limit the potential of sovereign public bodies to ensure road safety as well as the developments on the market for independent parties, as the characteristics of the ExVe model are associated with the following disadvantages:

- Proprietary vehicle architecture reflects the gatekeeper position of the OEMs: perform all roles as per definition.

- Restriction of consumer choice and innovation: OEMs exclusively define the offered data scope, quality, prices, and contractual terms.

- Apply only to B2B issues and require a contract with each OEM.

- Extensive exchanges within the framework of the Motor vehicles working group between all participants have not led to a workable solution based on the status quo that would enable relevant use cases, especially sovereign tasks.

This is precisely what the European Data Strategy seeks to prevent through the legislative proposal of the Data Governance Act and the Data Act[3].

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[2] *European Parliament resolution of 13 March 2018 on a European strategy on Cooperative Intelligent Transport Systems (2017/2067(INI) and European Parliament resolution of 15 January 2019 on autonomous driving in European transport (2018/2089(INI).*

[3] *Add Reference*

3.2. PO2 - FRAND principles

The requirements of fair, reasonable and non-discriminatory access (FRAND principle) to vehicle resources presented in PO2 are a good first approach.

Pros	Cons
+ *More transparency + competitiveness through the obligation to publish a data and function dictionary*	- *Sovereign tasks are not addressed* - *OEM remains in a technical-factual gatekeeper position, no independent governance model is foreseen*
+ *Fair contractual terms and reasonable proportionate fees for third parties* + *Free of charge to the Commission, Member States, sovereign public bodies, and technical services* + *Access to data and functions via the addressed OBD port, including an independent accreditation, approval, and authorisation scheme* + *Interaction via on-board HMI*	- *installation of third-party software/applications is not covered* - *The term "FRAND principles" is ambiguous*

However, PO2 still allows the OEM to act as a technical-factual gatekeeper. The manufacturer will still control all necessary roles in the governance of access to in-vehicle data, which renders the solution unsuitable for sovereign tasks. The specific requirement of the sovereign task needs to be addressed.

3.3 PO3 - Open on-board application platform

Legislative measures to enable the implementation of on-board application platforms would ensure fair and independent access for all stakeholders concerned.

But it will take a disproportionately long time for this solution (2 to 3 vehicle development cycles) to become technically implemented across a beneficially broad vehicle fleet after it has been legally established.

Pros	Cons
+ *Focus on the principle of "separation of duties"* + *installation of third-party software/applications* + *Interaction via on-board HMI* + *Protection against monitoring* + *Protection against tampering*	- *Effects on the hardware, modification through performance criteria* - *Potentially high costs for OEMs* - *The Extensive approval process required for on-board applications* - *The long-term solution to achieve the level of separation of duties*

3.4 Conclusion

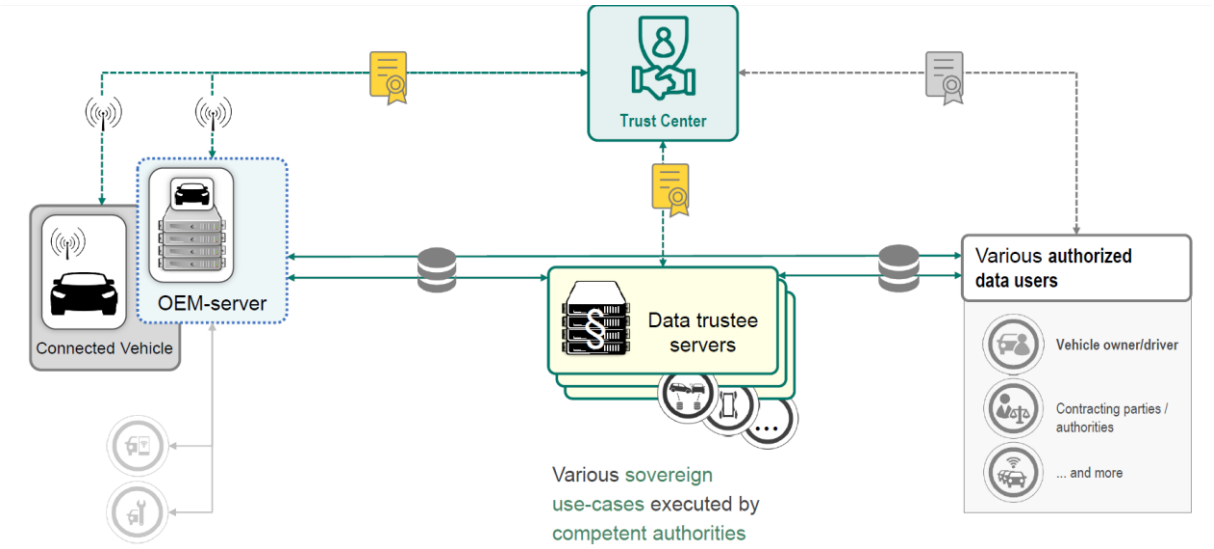
The assessment demonstrated that none of the proposed policy options would fulfil the requirements for sovereign use cases.

While option 1 amounts to the status quo which has proved insufficient and needs to be improved, options 2 and 3 are tailored to business cases, each with advantages and disadvantages.

CITA proposes to establish a reasonable advancement of the proposed policy options: A framework that builds on the FRAND principles of policy option 2 but adds the principle of "separation of duties" as well as measures to make the solutions fit for application by authorities and sovereign public bodies.

In addition, a uniform and practical solution is required to ensure an unrestricted direct vehicle data stream via OBD for sovereign public bodies and independent operators, which is clearly limited by OEMs through the implementation of certificates.

4 - EXTENDED IMPLEMENTATION OF THE PO2



Certificate for access authorization

Data stream

Trust Center: An independent body that performs access control to vehicle data. Both the identification of participants in a transaction and the authorization of access. Entrusted by national/regional authorities.

Data trustee: A body that collects or processes data from vehicles of different manufacturers and suppliers and makes it available to authorized third parties, e.g., for Roadworthiness testing, DSSAD, on-board fuel consumption monitoring, vehicle software updates, field monitoring and other use cases.

To ensure an accelerated regulatory implementation of fair and non-discriminatory access at a proportionate cost, CITA believes that the following minimum requirements for access to in-vehicle data and functions should be quickly established in legislation:

a) Independent and trusted access through separation of duties

Fair and trusted access for sovereign public bodies and independent service providers can only be achieved through an independent governance model, in compliance with the principle of separation of duties.

The separate tasks of data exchange, participants identification, authorization of access to in-vehicle data and functions, as well as resource provision, must be carried out independently of each other.

Independent access management shall be handled by a Trust Center. This independent and trustworthy body, entrusted by national or regional authorities, performs access control for data and functions of vehicles.

This includes both the identification of participants in a transaction and the authorization of access and guarantees fair and independent access for all stakeholders. It must be ensured that, upon receiving authorization for data access, data users and data trustees obtain access with the same quality and in the same timeframe as the OEM.

b) Advances in vehicle technology are defining the range of data

For the suggested data and functions dictionary, it must be ensured that the technological advances in vehicles define the range of data and functions available and should not be limited to a scope used by the manufacturer as a service provider or to any other 'minimum data set' described. A wide variety of data formats already exist today and will continue to exist, but they can be handled by referencing the diagnostic information provided by the OEM. A mandatory data dictionary is already mentioned in policy option 2.

c) Compatibility with the European Data Strategy through Data Trustees for sharing historical vehicle data

The model presented would also be in line with the European data strategy, including with the new legislative proposals of the Data Governance Act[4], which includes encouraging more reliable data sharing through the involvement of intermediaries. This corresponds to the **Data Trustees** according to this model, which collects and/or processes vehicle data from different manufacturers and suppliers and makes them available to authorized data users in a secure and legally compliant manner.

According to the assessment of policy options, a sector-specific additional framework for access to vehicle data is essential to ensure effective and fair competition and to improve road safety and environmental compatibility; it is explicitly covered by Recital 3 of the DGA.

[4] *Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on European data governance, COM (2020) 767 final.*

5 - WAY FORWARD TO A REGULATORY APPROACH

The current Type-Approval Regulation (EU) 2018/858 mainly addresses access to diagnostics, repair and maintenance information, and is primarily designed for access to information via a website.
Effective requirements that allow independent access to in-vehicle data, especially remotely, but also encompass sovereign use cases (e.g., OBFCM, RTTI[5]) are missing.

Upcoming legislative procedures should already consider the requirements of independent vehicle testing, so that relevant safety and environmental systems can be checked effectively. This could be achieved by widening the scope of access to in-vehicle data, functions, and resources in Regulation (EU) 2018/858. The provisions in Article 61 f. of Regulation (EU) 2018/858 can in principle be considered as a model.

By adopting the independent access management presented above through a Trust Center and combining it with the separation of duties principle, independent (remote) access for all stakeholders would also be guaranteed. Under appropriate legal consideration, a connection to data spaces currently being established (e.g., GAIA-X) would be feasible.

CONTACT DETAILS

CITA, THE INTERNATIONAL MOTOR VEHICLE INSPECTION COMMITTEE, IS THE WORLDWIDE ASSOCIATION OF AUTHORITIES AND AUTHORIZED COMPANIES ACTIVE IN THE FIELD OF VEHICLE COMPLIANCE.

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[5] *Appr. for both*