



EUROPEAN DATA PROTECTION BOARD

ON GUIDELINES 1/2020 ON PROCESSING PERSONAL DATA IN THE CONTEXT OF CONNECTED VEHICLES AND MOBILITY RELATED APPLICATIONS

Confederation of Finnish Industries (“EK”) is the leading business organization in Finland.¹ EK represents the entire private sector and companies of all sizes. It serves over 15,300 member companies across all business sectors.

The European Data Protection Board (“EDPB” or the “Board”) has invited public consultation on its Guidelines captured in the topic (“Guidelines”). EK thanks for the opportunity to participate in the consultation and presents the following remarks.

GENERAL COMMENTS

- The Guideline’s perspective on processing personal data in context of connected vehicles seems to be based on consent alone. This seems to ignore the possibility of legitimate interest of a 3rd party, such as the seller or importer. For example, the seller/importer could have responsibilities under the product liability law or have given a guarantee, which necessitates access to the vehicle’s maintenance history and technical data.
- It is unclear from the Guidelines what is the analysis for data connected to maintenance history and technical functionalities when the title of the car passes. The previous owner should not have unlimited rights to erase all data (especially maintenance, technical data). It needs to be clarified that such data follows the vehicle and not the person. Should the previous owner insist on erasing the data, this could have a devastating impact on the market price of a second-hand cars. There are very few physical maintenance books anymore that move along with the car.
- Therefore, the following “two data layers” -approach is suggested:
 - **“Neutral maintenance layer”** which should always be passed along with the vehicle (importers, buyers) without the previous owner being able to erase them.
 - **“Personal data layer”** which consists of mobility data and other personal data and which the owner should be able to erase when the vehicle is sold. This should be made easy, so it could be done reliably without external help, and with necessary safety precautions.

In this way, the needed information on the vehicle’s history would still follow automatically to the new owner and be accessible easily to the parties that need it.

¹ EU transparency register number 1274604847-34



- The maintenance history and technical data should not be in the scope of the owner's decision making about the data retention. If this would be the case, the vehicle owner could neglect maintenance and proper care.
- Retaining the data for the whole life-cycle of the vehicle with the two layer approach would help to maintain data needed for guarantee or product responsibilities. When the new owner would ask the importer / seller to fix the vehicle based on guarantee, none of the parties would have any data how the vehicle is used and maintained under the previous owner. Without this data, in some countries in B2C-relationships it is presumed that the vehicle is maintained appropriately. This assumption is however in many cases false, and neglect of maintenance can be verified against the technical data and maintenance history. This should not be erasable during the lifecycle of the vehicle. Otherwise this would give an unfair and unjust advantage to neglectful owners, impact second-hand car market and cause the buyer to possibly miss important information safety-wise

SPECIAL NOTES

- p. 7 par. 20: Scope currently covers also standalone mobile applications that contribute to the vehicles driving capacities (for example, navigation apps). Although these applications might have similar features to connected vehicles, they are often used without a car as well and cannot be categorized as connected vehicles as such.
- p. 10-11, par. 46: Transparency obligations towards user: The possibility of a connected vehicle service provider to ask consents or provide information to individual users of the car varies greatly depending on the type of service provided. The service provider usually identifies and contacts with the person who purchases the service but might not know whether the customer is also the one driving the car.
- p. 22 par. 108: The example about insurance providers seem to assume that the telematics providers and insurance companies actively cooperate in collecting the data so that the telematics provider is able to only transfer necessary aggregated data to the insurance provider. It is worth noting that the insurance companies and telematics service providers might not have any other contact than a common customer who wishes to share their data. The requirement for a telematics provider to be able to provide "scores" or other aggregated data that would be compatible with the insurance providers' requirements is an unfair burden. The insurance company as the data recipient should be responsible for only processing personal data necessary to them.