

Guidelines 1/2020 on processing data in the context of connected vehicles and mobility related application

ANIASA COMMENTS

The initiative of the EBDP meets the needs of explaining the implications of the GDPR and the e-Privacy Directive on the use of personal data in connected vehicles and mobility applications.

ANIASA – the Italian Association of Mobility Service (including short and long term rental, car sharing and digital automotive companies - representing 90% of the domestic market, welcomes the publication of the EDPB's draft guideline and, after an internal review, makes the following comments on the Guidelines 1/2020.

Introduction

As preliminary remarks, it is useful to highlight the exact context of represented sectors.

Short Term Rentals

Every kind of vehicles (cars, vans) can be rented to private or professional clients for a relatively short period of time in order to meet their respective transport needs (leisure, business, replacement).

Average term of rentals is 5/6 days, but are available also 1 month contracts, extensible (as internal rule) to 11 months. Each year the sector has over 5.5 million contracts for a total of almost 35 million rental days. In 2019 the average fleet was around 150,000 units.

Long Term - Operating leases

Long term automotive rental contracts are a specific kind of leasing, whereby companies who decide for this kind of service outsource their fleet needs – the vehicles as well as the related services to keep them available - to an operating leasing company. According to customers needs, the leasing company will provide the necessary vehicle (passenger cars, vans, etc.) to their clients, along with any required related services, including maintenance, insurance, fuel management and/or tyre replacements (just to name but a few).

Average term of rentals/leasing is about 36 month. At the end of the contract, vehicle get back to the owner, there isn't any clause to redeem the vehicle.

In some cases, firms may provide only fleet management services, ensuring the day-to-day management of their clients' fleet needs, without providing the means to finance the fleet.

In 2019 the average fleet was around 1,1 million units.

Car sharing

As in the short-term rental activities, any type of vehicle can be rented (mainly city cars, commercial vehicles and motorcycles). The contract duration is approximately 20 minutes and over 12 million contracts have been received in 2019.

Our estimates show that out of a total fleet of around 1.2 million vehicles, around 75% are equipped with telematic devices (eg: black box).

Telematics and "connected mobility" in ANIASA

The telematics and connected mobility sector has officially entered in ANIASA last year, with a new "Digital Automotive" section, set up to identify adequate tools for dialogue, analysis and representation towards the various stakeholders of mobility and national and local institutions. And vehicle connectivity is increasing every day, changing both how cars and any kind of vehicles are designed and built and used and business models in the automotive sector.

The opening of ANIASA to "connected mobility" highlights the leading role that the Association is playing in the ongoing evolution of the offer and demand for mobility, increasingly inclined to the 'pay per use' model and less tied to ownership of the car asset. The primary objective of the Association in this area is the definition, through dialogue with the institutions, of a clear context of rules on the management of shared data through the devices that connect vehicles.

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In this context - and considering the new needs of the final consumer on big data generated in real time and in a bi-directional way - the framework of specific rules on the processing of general personal data for services - also advanced and digital - was recognized as fundamental. mobility.

On this matter, the General Regulation for the Protection of personal data is the basic reference.

As also more recently highlighted by the European Data Protection Board Guidelines 1/2020 on the processing of personal data in the context of connected vehicles and mobility-related applications, there are currently many and varied ways in which they can be collected. personal data and other information in the context of so-called "in-vehicle connectivity".

The growing expansion of services, devices, technologies and applications makes vehicles today real hubs, that is, mass concentrators of interconnected data: the vehicle has become a hub for sorting out a complex ecosystem made up of communication networks and services electronics of which it is a relevant part.

As underlined by the Guidelines, various fundamental aspects must be considered in the general approach to the current connectivity scenarios inside the vehicle.

First of all, the vehicle represented in any case "a private area" where it is possible to express the activities of the person concerned (driver, passengers, owner) and where it must be possible to express one's own decision-making autonomy without suffering external interference.

Secondly, connectivity does not only concern the vehicle or the relative devices, but also involves various interested parties (the driver, the passenger, the owner or the lessee of the vehicle), increasingly connected independently, such as dialogue between smartphones and interconnected vehicle systems or authentication to vehicle control systems.

As a third reflection, the complex ecosystem of connected vehicles sees more and more emerging subjects other than the traditional ones in the sector and the automotive industry. Among these emerging subjects, they have an important role in the collection and processing of the data of the insurance service providers described on the use of the vehicle in addition to the managers of motorway services and telecommunications operators.

Added to these are the providers of infotainment services (online music, traffic and mobility information providers) or suppliers of driving support systems and services (suppliers of software for autonomous driving or diagnostics on conditions of the vehicle or dynamic mapping services: these are subjects that come into specific consideration, since the vehicles are connected to electronic communication networks, these subjects play an important role in providing connectivity as a service.

A further important reflection on the basis of the GDPR leads to consider most of the personal data generated in increasing quantities by connected vehicles and related devices, apps, services, as "personal data". It follows that even data not directly connected to a name, but to technical aspects or characteristics of the vehicle, will always be relative and will concern the driver or passenger of that vehicle, insofar as it is possible to - even subsequent and indirect - identification of the stakeholders.

We can think, for example, of the habits and driving styles of the specific driver that can be drawn from the technical data of the vehicle, the distances traveled, the data on the wear of the vehicle or its parts, data collected by video cameras that highlight the driver or passengers behavior.

The final objective of compliance, of definition of the rules, starting from the general reflections listed, must therefore be to "incorporate" the data protection dimension right up to the product design and design phase (the vehicle or the connected accessories and devices).

This is a method aimed at ensuring that the perspective of "privacy by design" (fundamental mandatory principle introduced by article 25 of the GDPR) ensures users of vehicles and connectivity services with total transparency and total control over their personal data, also increasing the confidence and reliability of the related technologies.

Operational problems

Geolocation data – Paragraph 2.1.1 – article 61

The geolocation of the vehicle represents particular data treatment delicacy, since they are able to detect habits and behaviors in detail preferences, lifestyles, choices, etc. of the person concerned.

The first, fundamental principle referred to by the Guidelines 1/2020 on connected vehicles is that the parties concerned (vehicle manufacturers, service providers, insurance companies,

etc.) can proceed to collect data from geolocation only if such data is indispensable and necessary for pursue the purposes of the treatment.

ANIASA underlines the utility for greater attention to the issue, as there are important needs for rental companies to check the geolocation of the vehicle in their fleet (e.g., fleet utilization; locating a reported lost or stolen vehicle or identifying when they are entering high-risk locations such as ports etc.; fuel and mileage; check out/in; etc.). In such circumstances, adequate safeguards to prevent other uses of the geolocation data should be sufficient, that are very important for renting vehicle activity.

A limitation of this functionality could significantly impact on certain functionality that is intended for the benefit of the customer such as roadside assistance or accident reporting. A more adequate approach to this recommendation should be adopted in the Guidelines.

Removal of personal data from car's dashboard Paragraph 3.5.3

Guidelines 1/2020 examine the right to erasure personal data present in connected vehicles, with the practical case of rental services and previous customer data stored in the vehicle dashboard. It is, for example, the history of navigation and the places visited; web browsing history; utilization of apps, choices of music playlists, streaming of video content, etc. The very hypothetical risk is that subsequent occupants of the rented vehicle can access real profiles of the previous customer.

ANIASA underlines that **all data stored on the car's dashboard by a customer is shared by the customer on a voluntary basis**. None of the renting companies requires the input of this data to make use of the relevant vehicle. As an example customers are completely free to enter destinations in the GPS and/or connect their mobile device(s) with the car and therefore the customer has total control over providing this data.

Moreover renting contracts allow the user in control of the deletion and removal of this kind of information from the vehicle dashboard. Instead of relying on a third party, such as a vehicle rental or car share operator, vehicle users have a self-service ability to delete whatever they want from the dashboard. Renting companies should more correctly be qualified as independent owners and not responsible for the processing of their customers' data. On the other hand **customers should be given the opportunity to delete this information themselves and short, long term and car sharing companies should not be made liable to do so**.

We also note in the large majority of instances much information stored on the customer's device (e.g. contacts, phone numbers) are not retrievable without the presence of the customer's device in the vehicle at the same time. Data that may be viewed by future renters are very limited.

For all these reasons, there are practical limitations on the potential intrusion into the privacy of any individual renter that such information can cause.

ANIASA

- disapproves the expected obligation for rental companies to delete the data stored on the vehicle dashboard at the end of each rental;
- shares the possibility with other automotive stakeholders about the adoption of a Code of Conduct/Document of recommendations to provide the customer with clearly information on how to delete their data from the dashboard at the end of the rental period.