



European Data Protection Board
Rue Montoyer 30
B-1000 Brussels

Bunnik, April 30, 2020

Subject: Response BOVAG to EDPB guidelines on processing personal data in the context of connected vehicles and mobility related applications

Dear Sir, Madam,

Herewith BOVAG, the Dutch trade association for mobility retailing, responds to the consultation of Guidelines 1/2020 on processing personal data in the context of connected vehicles and mobility related applications¹. Should you have questions, do not hesitate to contact us.

For BOVAG, consumer freedom of choice in mobility is key. Consumers must be in the lead to decide who receives their car data, whether this is dynamic, technical and/or personal data. Thus, privacy protection of both personal and technical data should be considered as a key condition. Therefore BOVAG welcomes the EDPB guidelines, and we emphasize the importance of three main principles: full transparency towards consumers, the possibility of opting-out and the possibility of opting-in.

Although we support the EDPB guidelines, BOVAG stresses that, when it comes to data and the connected car, looking solely at privacy (GDPR) aspects would be an approach too narrow, because there is more than meets the eye. Both technical and personal data represent certain economic values and consumers should be in control to decide which technical and/or service provider can view and work with their data to offer for instance technical assistance or commercial and convenience services.

To make this control possible it is essential to differentiate between personal and technical data. This differentiation enables drivers to delete only their intrinsically privacy related data (e.g. visited locations, saved personal contacts) and not the non-privacy related data (technical and security data) that is required for (predictive) maintenance or for repair of the vehicle (e.g. vehicle identification number, engine temperature, tyre pressure). We are able and willing to share our thoughts to clarify the differences between privacy and non-privacy related data.

As aforementioned, it should also be up to consumers to grant access to their car data to a service provider of their choice. This is a way to boost innovation, to improve competition and to create an equal level playing field between different service providers, both OEM and independent providers. However, for consumers to be able to share their car data to a service-provider, they must have a complete insight in the data connected cars produce. This means that for example the company that sells the new or used car (hereinafter referred to as Retailer) must be able to inform its customers about all the data that is derived from a connected car ('dynamic data'). This is however currently simply not possible. Car manufacturers (OEMs) do not provide (full) transparency in data of connected cars. Instead they have built data server systems (so called Extended Vehicle or ExVe) to protect their sole control over (dynamic) car data. Consequently the transparency of and the access

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¹ BOVAG supports the response of CECRA and wished to add our response.



to this car data is limited for all parties other than the OEMs. As a consequence, customers today do not get full insights in the data their car produces and they do not have freedom of choice regarding their own and personal car data.

Although “mobile related applications” slightly differs from the Extended Vehicles solution, these mobile solutions can also have access to this “in-vehicle data” - thus should be included in this regime. The possibility for consumers to grant service providers and workshops access to their personal and technical data is an essential part of a competitive automotive industry. OEM’s claim that they build their own technical database structures and servers (such as the ExVe concept) to guarantee safe and secure maintenance and services. The downside of these so-called ExVe concepts is that it facilitates OEM’s sole control over car data which they use to limit access to it at the expense of both independent and branded car dealers. This is contrary to an equal level playing field and BOVAG calls upon the EDPB to take note of this unwanted development. We therefore stand for the use of an Open Telematics Platform that permits equal, safe and secure access for all (independent) service providers and workshops, on condition of consumer consent. This will lead to fair and equal competition in the market.

Recommendation 85 needs a proper comment. EDPB states here that *“data subjects may be informed by concise and easily understandable clauses in the contract of sale of the vehicle, in the contract for the provision of services, and/or in any written medium, by using distinct documents (e.g., the vehicle’s maintenance record book or manual) or the onboard computer.”* Retailers are often met with criticism that they do not inform customers properly on data collection prior to vehicle sale, lease or rent. It is crucial to stress that retailers themselves are not well enough informed on all the aspects of data collection by the importer or OEMs. Retailers are willing to cooperate and to fully inform their customers in accordance with the GDPR-regulation, but they do not have the means to do so because of this lack of transparency. This lack of transparency should be taken away by the importer and OEM in order to enable retailers and rental organizations inform their customers properly.

BOVAG welcomes the idea of deleting personal information of the consumer and the idea of a standardized easy delete-functionality for privacy related information in each car would be a positive approach. This delete function would also apply for downloaded vehicle manufacturers apps. Again, consumers should be given the opportunity to delete this privacy information themselves and automotive workshops, leasing or rental companies should not be made liable to do so. We would plea for an exemption when it comes to technical safety and security data generated in the connected car ecosystem, to guarantee that vital and essential vehicle functions can remain object of proper vehicle maintenance. Such information should not be deleted, since it contributes to safe and secure mobility. The EDPB already notices this aspect as stated in recommendation 73 of the guideline: *“(…) the EDPB recommends developing a secure in-car application platform, physically divided from safety relevant car functions so that the access to car data does not depend on unnecessary external cloud capabilities.”*

Kind regards,

BOVAG

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