



Leaseurope feedback to the Data Act

Leaseurope, the European Federation representing the leasing and automotive rental industries, fully supports the European Commission's intention to create a Single Market for data and to create fairness in the data economy.

The growing presence of Connected Cars in the European fleet offer significant potential in the mobility eco-system to meet key EU strategic goals: decarbonisation, enhanced road safety, more accessible and affordable everyday mobility and the increased integration of multiple modes to provide seamless one-stop journeys (notably through MaaS solutions). Connected Cars will increasingly be able to communicate with each other, with infrastructure and, in effect, with other modes as part of MaaS solutions. The potential for these services to evolve to the benefit of the European consumer and European business is limitless. Europe is well-placed to take a leading global position.

Vehicle-generated data (or in-vehicle data) is the turnkey for these innovations and solutions. Conversely, unfair and discriminatory restrictions placed on direct access to in-vehicle data will stunt this innovation for European consumers, businesses and the mobility eco-system as a whole. To date, business-to-business contracting for in-vehicle data has proved very time-consuming, fragmented and unnecessarily onerous. This has apparently been borne out by the TRL report conducted for DG GROW of the European Commission which surveyed a large number of actors throughout the mobility value chain.

The Data Act offers an important opportunity to establish clearer European rules for B2B data transactions. We also appreciate the idea of complementary initiatives to the Data Act for sectoral data spaces or data access & use in specific sectors or markets (incl. vehicle data). However, over the course of five years' of evidence gathering, the Commission has identified a significant gate-keeper issue that requires resolution and clear "rules of the road", as well as a holistic piece of legislation that addresses the whole range of related issues that include cybersecurity, liability, driver interface, privacy and data protection and a governance framework covering all the aforementioned issues to establish roles responsibilities for all mobility eco-system players. Such rules must also account for the fact that the Vehicle Manufacturers are increasingly providers of mobility services and access to data from their vehicles must not be used to provide unfair competitive advantage or deprive non-discriminatory access to competing mobility service providers. Equally, the rules must outlaw

anti-competitive data learning by vehicle manufacturers from vehicles they sell to competing mobility service providers.

The Commission arrived at the conclusion in the 9 December 2020 Sustainable and Smart Mobility Strategy and Action Plan that it needed to make a “Proposal on a new regulatory framework to open up access to car data to mobility services”. We believe that the Commission has identified the right approach that is entirely consistent with the evidence base accumulated over the five previous years. While the Data Act plus supported sectoral legislation may address several of the identified problematic issues, we remain far from convinced that it can provide the holistic and, critically, seamless regulatory framework that addresses the full range of inter-connected issues that arise from guaranteeing fair, non-discriminatory and safe access to in-vehicle data.

Data access and use in business-to-business situations

Leasing provides the possibility for firms to upgrade assets, thus giving them access to the latest, most efficient technology available and keeping them competitive and in line with the new environmental and sustainability targets.

The Data Act needs to provide a coherent framework for the machine generated data in the context of the Internet-of-Things (IoT), which is relevant for all sorts of connected leased equipment to ensure the assets can be tracked and serviced during their life cycle as well as materials and components can be easily repaired, maintained, and recycled at the end of the life cycle.

In certain cases, particularly for SMEs who have high growth potential, leasing may be the only way to finance their development. In order for a firm, in all stages of its development (from young start-ups to companies that are far along their life cycle) to be able to upgrade or replace their machinery, leasing companies will need unfettered data access, consistent with GDPR and ePrivacy Directive requirements, to their clients’ asset to deliver an efficient service and meet consumer’s expectations.

Leasing also often has a service component such as insurance or maintenance: the firm can effectively outsource all of its asset related needs to the lessor who provides one convenient package. For this reason, enabling conditions in the digital space are key.

Along the same lines, vehicle rental as a key component of shared mobility provides access to the right vehicle, for the right purpose and right duration for day-to-day commuting, commerce, leisure and tourism. As such, rental vehicles tend to be used on an “as-needed” basis and replace private vehicle trips, often in vehicles that are ill-suited for the specific journey purpose.

Connected rental vehicles offer a wide range of possibilities from low-touch/no-touch access models to integration into multi-modal and notably Mobility as a Service (MaaS) systems. This enables users to access mobility from areas that are not well served by public transport and are frequently located some distance from transport hubs to reach those hubs and access public transport, micro-mobility or simply to be able to bike or walk the final legs of their journeys. Digitisation and data-sharing will boost on-demand shared mobility services and promote the development and widespread deployment of MaaS solutions.

We believe that the Data Act can enable digitalisation while at the same time achieving sustainable growth in the EU by helping European businesses access productive and greener assets.

We appreciate that the review of the Database Directive will need to ensure that the application of the directive does not pose an obstacle to the access and use of machine generated data and data generated in the context of Internet of Things. This is particularly relevant for our industry which serves a vast range of sectors and activities (including R&D and innovation, infrastructure, industrial technology, capital-intensive projects, healthcare, environmental technologies, etc.).

Sector specific legislation

When it comes to connected vehicles, a great innovation potential is there if the right conditions are ensured regarding access to in-vehicle data. This is essential for both leasing and automotive rental.

We call for the Commission to urgently release sector specific rules for the automotive value chain taking into account updating the already existing Motor Vehicles Block Exemption Regulation, the Vertical Block Exemption Regulation (insofar as it relates to the distribution of new vehicles) and type-approval rules. As stated above, we believe the Commission should proceed with its Proposal on a new regulatory framework to open up access to car data to mobility services at the earliest possible juncture.

We believe the future Data Act can provide additional clarity to the B2B dimension of data contracting between the vehicle manufacturers in addition to the Proposal on a new regulatory framework to open up access to car data to mobility services.

Use of data, increased data sharing and data portability

At the same time, coherence is needed also with the ePrivacy rules on access to information stored in a user's terminal equipment, currently under revision: while the users' personal data and privacy will be guaranteed through the GDPR framework, the industry should not require explicit consent for each operational data set that is intrinsic to the delivery of the service requested by a customer. Operational data can include *inter alia*, fuel level, oil level and mileage. This applies both to automotive equipment and to all general leased assets. Taking as an example the VIN number, we argue that such technical information alone cannot trace any particular individual and, together with non-privacy related data, should not be subject to any restrictive treatment as the EDPB Guidelines suggest.

We believe that a robust framework should be in place for mobility services and measures such as a Delegated Act will not be sufficient to address the complex cybersecurity, governance, consumer and competition angles of a Data Act initiative. Ultimately, consumer issues are at stake and can be only tackled by a Proposal on a new regulatory framework to open up access to car data to mobility services to go through the full Ordinary Legislative Procedure.

Leaseurope, together with other aftermarket associations, has worked on a solution which would address all these issues: the Secure Onboard Telematics Platform (S-OTP). This set of requirements would preserve rights and obligations of every stakeholder and ensure competition while enabling a wide range of digital services to be made available for the consumers.