

ETRMA views on Data Act and Access to in-vehicle data initiatives

The tyre industry welcomes the publication of the Data Act proposal as it represents a horizontal, high-level, principle-based regulation aiming at deploying a cross-sectoral governance framework for data access and use in line with the spirit of European Data Strategy. A successful Data Act will be essential to the transformation of Europe's use of data across sectors, including in the further development of smart and sustainable mobility.

The Data Act lays down a large number of principles, which will contribute to better sharing of data for the benefit of the user. We welcome in particular the following principles, which we urge the co-legislators to retain as the core of the Data Act:

- the obligation to design and manufacture products so that data generated during their use are accessible to the user, whether a company or an individual (Article 3);
- the transparency principle which mandates that the manufacturer must publish the data likely to be generated by the use of the product (Article 3);
- the right of the product user to access and use data generated by product use and related services (Article 4);
- the right of the product user to mandate the sharing of data generated through product use with third parties chosen by them and based on FRAND terms (Article 5);
- the interoperability requirement supporting standardization of data sets and other elements required to share data effectively (Article 23).

We also hope that the co-legislators will further improve the Commission's proposal in a number of areas where we consider there is scope for increasing clarity and strengthening of the intent of the Data Act. These include clarity on the use of derived data by the user's chosen third parties, and the scope of the protection from unfair contact terms and compensation safeguards.

As described in the explanatory memorandum¹, the Data Act will be complemented with sectoral regulation in the mobility sector to address “sector-specific challenges, including **access to vehicle functions and resources**”.

The tyre industry believes this future legislation, due to be proposed later in 2022, is of vital importance in order to ensure the development and the growth of the entire European value chain of connected mobility services. To this end, the sectoral regulation should address:

- The extension of scope to vehicle functions and resources, including vehicle's Human Machine Interface (HMI);
- Transparency measures for service providers;

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- Standardization of common dataset as present in the Access to Vehicle Data & Cybersecurity Expert Group session in 2019²;
- Standardization of safety and cybersecurity criteria³ to grant access to vehicle data function and resources;
- Definition and implementation of access rights for third parties under the governance of an independent authority.

These missing key technical harmonized requirements should also be aligned with the Data Act framework under which the OEM, as data holder in his role of vehicle manufacturer, may apply appropriate technical protection measures, including smart contracts, to prevent unauthorized access to the data and to ensure compliance. However, we consider it essential that technical protection measures permitted under Article 11 of the Data Act should not be used as a means to hinder the user's right to effectively provide data to third parties. Sector-specific rules are increasingly necessary in our sector to ensure this.

The sector-specific regulation will also provide a further opportunity to provide clarity on how to implement the principles of the Data Act in the automotive sector, including Articles 6 and 9.

ETRMA therefore also calls on the European Commission to make in good time during 2022 its proposal for a Regulation on sector-specific provisions for accessing in-vehicle data, which will ensure fair competition among industry players and guarantee EU competitiveness and leadership.

² <https://circabc.europa.eu/sd/a/0a44d800-8d7a-41cc-b465-d60e059f93f8/Minutes%20-%20%20Workshop%20on%20Access%20to%20vehicle%20data%2018.11.2019.pdf>

³ Regarding cybersecurity, ETRMA would welcome an EC initiative to address the implementation of UN R155 in the European Framework through amendments to Annex X to (EU) 2018/858. In that respect, ETRMA reiterates its request for putting in place **an independent cybersecurity governance scheme by setting-up the missing key technical harmonized requirements**. A governance scheme based on SERMI roles extension could deliver authentication to all cyber secured parties to access the data requested.