

CALL FOR EVIDENCE FOR AN IMPACT ASSESSMENT

TITLE OF THE INITIATIVE	Access to vehicle data, functions and resources
LEAD DG (RESPONSIBLE UNIT)	GROW I2
LIKELY TYPE OF INITIATIVE	Legislative
INDICATIVE TIMETABLE	Q4 2022
ADDITIONAL INFORMATION	
<p><i>This document is for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described, including its timing, are subject to change.</i></p>	

A. Political context, problem definition and subsidiarity check

Political context

In 2020, the Commission adopted the [Data Strategy](#)¹ to make the most of industrial data's innovation potential. The Commission [proposal for the Data Act](#) is the last major cross-sectoral legislative initiative in the context of the Data Strategy. It sets out the overall principles across all sectors for data access to connected products by users and third parties. It introduces in particular user rights to access and share data with third parties and compensation and contractual principles for business-to-business data exchange. It also sets down rules for business-to-government data access in exceptional circumstances, as well as switching principles for cloud services.

Access to vehicle data has been regulated at EU level since 2007 for repair data and on-board diagnostics (OBD) to ensure fair competition on the repair and maintenance aftermarket². Since then, the market for connected vehicles has developed. Already in 2018, over 85% of all new cars were connected wirelessly; over 470 million connected vehicles are expected to be on the roads in Europe, the USA and China by 2025³. Connected vehicles make it possible to remotely access vehicle data. They also give remote access to functions (e.g. remote door unlocking for car sharing, launching diagnostic routines) and resources (e.g. displaying information on a vehicle's dashboard). This remote access enables remote diagnostics, but also new aftermarket services such as mobility as a service or pay-as-you-drive insurance. The rise of electric vehicles will be accompanied by new digital services to facilitate the vehicle's optimal integration with the electricity system, such as smart charging and bidirectional charging (vehicle to grid/home) that will require access to vehicle data and the Battery Management System by electricity market participants, as required in the proposal for the [Renewable Energy Directive](#), so as to enable consumers to reap the full benefits of their assets and empower them to become the agents of the green transition.

The Data Act will have a major impact on the mobility ecosystem, boosting innovation and competition in aftermarkets, other automotive or electric vehicles related⁴ services. However, this might need to be complemented by more specific provisions for the automotive sector for the reasons explained in the following section.

The revision of vehicle type-approval legislation was urged in the European Parliament's resolutions of [13 March 2018](#) and [15 January 2019](#).

¹ Commission Communication of 19 February 2020 *A European strategy for data*.

² [Regulation 2007/715](#), amended by [Regulation 2018/858](#)

³ [ITS digest, February 2018](#)

⁴ Such as e.g. electricity system integration services or battery-repurposing or recycling services, as required in the proposal for the [Regulation on Batteries and Waste Batteries](#).

<p>The Commission is also working to update the EU type-approval vehicle legislation on some technical issues (other than access to vehicle data, functions and resources), taking into account the technical progress, notably regarding the definition of buses preventing fully automated shuttles with less than 8 seats to be approved at EU level, or clarifications on some of the requirements of the EU type-approval legislation.</p>
<p>Problem the initiative aims to tackle</p>
<p>Access to data, functions and resources is crucial for the development of innovative data-driven mobility services. Public authorities also need access to data, functions and resources to perform their tasks, such as CO₂ monitoring, ensuring compliance with pollutant emissions regulations or doing roadworthiness controls. However, today, according to the information the Commission has gathered, although vehicles generate huge amounts of data, the access to these data is limited and not standardised. At the same time, it is essential that access to vehicle data, functions and resources do not create new risks for cybersecurity, road safety, intellectual property or data protection.</p> <p>The proposal for the Data Act will empower users by giving them the right to have access to vehicle data and the right to share the data with third parties. However, the Data Act provisions may not go into sufficient details of access to functions and resources, crucial for the provision of data-dependent services in the automotive sector. Furthermore, problems with the disparity of available data and access modes across vehicle brands, as well as the interplay between access to data and relevant cybersecurity and safety measures, are so closely linked to the nature of connected products (in this case, vehicles) that they could not be addressed with cross-sectoral legislation. This means that, to ensure the Data Act is properly implemented in the automotive/mobility ecosystem, its principles could be complemented by measures to standardise the data sets concerned and to ensure access not only to data, but also vehicle functions and resources, as well as by rules ensuring effective, non-discriminatory, safe and secure access allowing for fair competition, notably for aftermarket and mobility services.</p> <p>According to a JRC study⁵, better use of car data, resources and functions by all stakeholders could result in higher quality and cheaper data-based services for consumers. It could also lead to the high take-up of such services, to the benefit of consumer welfare and innovation.</p>
<p>Basis for EU action (legal basis and subsidiarity check)</p>
<p>Legal basis</p>
<p>The legal basis for the initiative is Article 114 of the Treaty on the Functioning of the European Union. This provision of the Treaty provides a legal basis for the existing type-approval legislation, as it is appropriate for measures aimed at achieving the objectives set out in Article 26 TFEU (Internal Market).</p>
<p>Practical need for EU action</p>
<p>Future rules on access to vehicle data, functions and resources should be consistent with the existing type-approval rules (e.g. on repair data, emissions, safety and cybersecurity). The proposed rules should also complement the Data Act by addressing the particular situation of the vehicle aftermarket and mobility services, by fine-tuning the access rights framework and the conditions for secure access to a vehicle's data set, functions and resources.</p> <p>The placing on the EU market of motor vehicles is now fully harmonised by the EU vehicle approval framework. The Data Act also aims to harmonise data access rights and the conditions for accessing data at EU level. To avoid market fragmentation, it is therefore necessary to determine at EU, rather than national, level the rules on access to in-vehicle data, functions and resources.</p>
<p>B. Objectives and policy options</p>
<p>Objectives: promoting innovation in the automotive and mobility sector for higher quality, choice and prices of such services for consumers, while safeguarding cybersecurity, safety, personal data protection and intellectual property, as well as the industry's competitiveness; providing the necessary investment incentives for a flourishing ecosystem for data-driven vehicle-related (including electric vehicle-related) services. Enabling public authorities to perform their tasks, i.e. in the area of environmental and road safety policies, by improving their access to vehicle data.</p>

⁵ JRC Digital Economy Working Paper 2018-06, Bertin Martens, Frank Mueller-Langer, 2018.

To achieve the initiative's objectives, three broad policy options have been identified. They are all fully aligned with the Data Act proposal and based on the same principles (transparency, non-discrimination, being technology-neutral), but differ in scope and in how detailed the rules are. All options build on and complement the Data Act and take into account other EU relevant legislation (such as the General Data Protection Regulation and Motor Vehicles Block Exemption Regulation).

Option 0 (Baseline scenario): no EU sectoral intervention. Existing legislation on vehicle repair data, the Data Act and competition rules would apply.

Option 1 (Equal, non-discriminatory access and transparency): The access rights granted in accordance with the Data Act would be complemented by equal access rights to functions (e.g. the possibility of remotely unlocking the vehicle door for a shared mobility service) and resources (e.g. the possibility of displaying speed limit information on the vehicle dashboard for a navigation service, or to charging/discharging the battery for electric vehicle related services) for all parties. To ensure transparency, in addition to the Data Act transparency measures for users, the list of vehicle data, functions and resources accessible on a specific model or version of a vehicle would need to be published or otherwise made available by the vehicle's manufacturers. Rules would also address the interplay between the right to access data, functions and resources and the applicable cybersecurity rules. Finally, reporting obligations for manufacturers would be introduced, to inform competent authorities (e.g. type-approval authorities and the Commission) about the implementation of such access rights.

Option 2 (Minimum list of data, functions and resources to be made available): With this option, the principles referred to in option 1 would be complemented by a requirement to demonstrate on type approval the availability for access of a minimum list of data, functions and resources, also remotely and in a specific format. This would also include bi-directional communication with the driver through a vehicle's human-machine Interface. Continuous and secure access to the on-board diagnostic port would also be covered. Rules would also address specific safety and security challenges related to these measures.

Option 3 (not only a minimum list of data, functions and resources, but also governance rules on access): This option would include all the requirements identified under option 2, and further specify how access to data would occur and be controlled. Such provisions would apply to all modes of access, taking into account their technical specificities.

C. Likely impacts

In the baseline scenario, service providers will rely on users' requests to obtain access to data under the Data Act. They will also benefit from certain requirements of the Data Act on the prohibition of discrimination or the prohibition to require excessive information from the data recipient. This option is likely to be accommodating of developments in this fast-changing sector. However, it does not take into account the sector-specific needs for access to vehicle functions and resources or the specific needs of public authorities to access a minimum list of data. Nor does it take into account the possible trade-off between access rights and cybersecurity and vehicle safety requirements. This means that, although the Data Act will establish rights and obligations to improve the current remote data access situation, there would be obstacles to fully reaping the benefits of the Data Act without complementary sector-specific legislation.

Option 1. The transparency on the potential of vehicle data/resources towards independent service providers and public authorities (catalogue), as well as the reporting obligation, will likely encourage broader and fairer access for independent service providers. This option will have the flexibility to accommodate developments in this fast-changing sector and takes into account current differences between manufacturers. It would not generate additional risks for safety or security. The implications of innovation and interoperability incentives for the development of the market for data-driven mobility services would need to be analysed in detail. As no data would be specifically required to be available in a particular format, this option may not facilitate the tasks of public authorities who need to access some crucial sets of data (e.g. on the level of pollutant emissions) for enforcement-related reasons. Reporting obligations and the related work of type approval authorities might generate administrative costs, to be further scrutinised during the impact assessment.

Under option 2, access to a minimum list of data, functions and resources by all parties could stimulate competition, innovation and consumer choice. Due to the attendant increased possibility of proposing services across brands, this option, by facilitating the development of new services, could create a stronger business case for the provision of data-driven services, with a possible positive impact on employment. It could also address governmental bodies' specific data needs for, e.g. monitoring traffic, CO₂ or pollutant emissions or vehicle safety. In this way, it could have a positive effect on road safety and the environment (subject to separate legislation mandating access to these data). This option should also tackle additional safety and security concerns. Implementation might take longer due to standardisation work. The consequences of a possible increase in the processing of personal data will be analysed in the impact assessment. The General Data Protection Regulation will fully apply.

Option 3 could facilitate equal and secure access to vehicle data, functions and resources, and ultimately create a more level playing field and greater incentives for investment in the independent provision and development of new

services, with a potentially greater (than other options) positive effect on employment. There could also be an even more beneficial impact on the environment, e.g. thanks to better monitoring of CO₂ and pollutant emissions and better access to vehicle sharing and recharging services for electric vehicles. Regulating on-board access may result in additional security and safety gains. However, it could also increase vehicle manufacturers' costs and would require an even longer implementation period. It would involve detailed and comprehensive legislation and is therefore likely to require frequent updates to avoid creating obstacles to innovation, and further compliance costs. An in-depth analysis of its impact on the sector's regulatory burden will be performed.

D. Better regulation instruments

Impact assessment

An impact assessment will assess the likely impacts of each option. This will help the Commission with the preparation of its proposal.

Consultation strategy

The purpose of the consultation activities is to collect evidence and views from a broad range of stakeholders and to give them an opportunity to provide relevant information.

Previous studiesⁱ and [consultations](#) have identified a number of technical, legal and policy issues concerning access to vehicle-generated data. These were complemented by a series of [workshops](#) organised with stakeholders between July 2019 and March 2020, as part of the work of a dedicated subgroup of the Commission Motor Vehicle Working Group (MVWG). This made it possible to better identify problems and nuance the actual [concerns](#) of the different stakeholders.

Based on this input, the Commission launched a study, delivered March 2021, to identify services and data concerned and related trends, as well as any related competition issues. The report presented possible measures and policy options. An additional dedicated stakeholders' workshop took place in September 2021. This was complemented by the consultation that took place in preparation for the Data Act, also covering the automotive sector.

A public consultation (initially only in English, with other languages following) will be launched together with this CfE. In early 2022, a further targeted survey (with the stakeholders belonging to categories potentially directly affected by the initiative, including vehicle manufacturers, component and platform providers, vehicle related and mobility services' providers and data intermediaries) is planned to collect data allowing for quantification of the effects of the status quo and of the policy options considered by the Commission. Member States will be consulted in March/April 2022 in the Member States Expert Group.

A factual summary report will be published on the Have Your Say website 8 weeks after the closure of the public consultation. A synopsis report will be published as an annex to the impact assessment report.

Why we are consulting?

The Commission is gathering stakeholders' views regarding the current state of play of access to vehicle data, functions and resources, as well as their views on a range of possible measures that could improve the situation, and the costs, impacts and possible risks of these measures.

Target audience

All individuals and organisations are welcome to contribute to this consultation. The Commission would like to get input from a broad range of stakeholders, such as public authorities, vehicle users, including individual drivers and professional fleet owners/operators; vehicle manufacturers; component providers; vehicle-related service and mobility service providers, including independent service providers and the service providers controlled or authorised by a vehicle manufacturer; electricity market participants; charging network operators; non-governmental organisations, such as consumer organisations or organisations defending privacy; European social partners' organisations (employers' and workers' organisations).

ⁱ [Study on access to in-vehicle data and resources](#); McCarthy, M., Seidl, M., Mohan, S., Hopkin, J., Stevens, A., Ognissanto, F.: 2017 and 'Access to digital car data and competition in aftersales services', JRC Digital Economy Working Paper 2018-06, Bertin Martens, Frank Mueller-Langer, 2018.