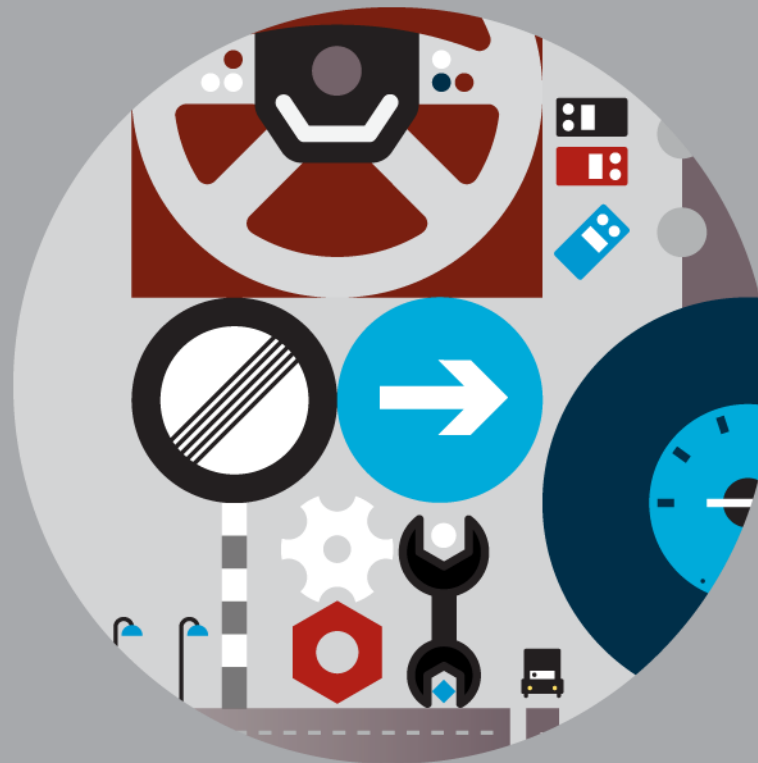


eCall, Connected Cars and Competition: Opportunity and Challenge for the FIA



Dr. Thomas Funke
The Hague
September 2013

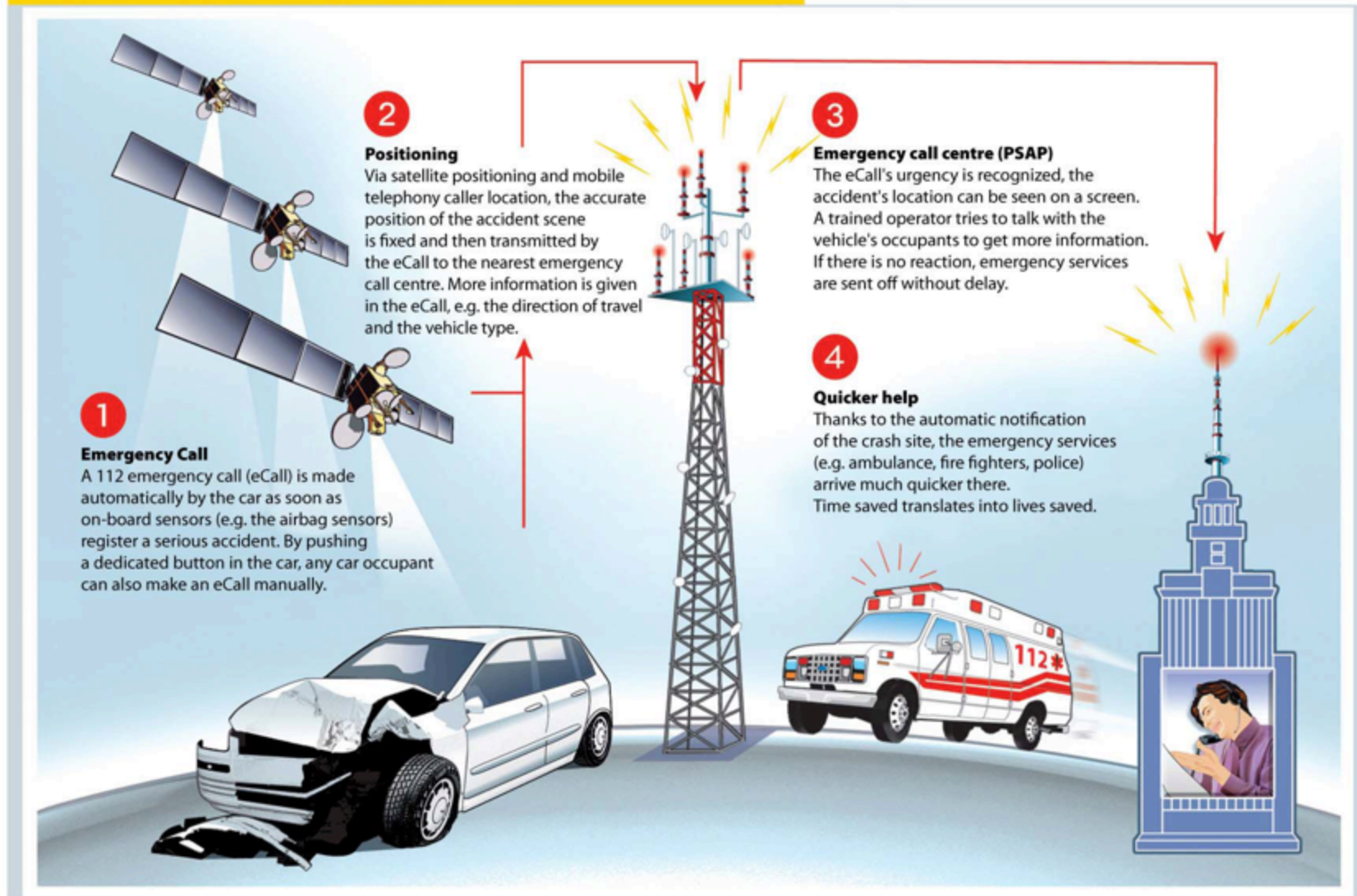
The Commission's eCall proposal

To help mitigate the consequences of serious road accidents across the EU, on 13 June 2013 the European Commission adopted two proposals to ensure that, by October 2015, cars will automatically call emergency services in case of a serious crash.

The "eCall" system automatically dials 112 - Europe's single emergency number - in the event of a serious accident. It communicates the vehicle's location to emergency services, even if the driver is unconscious or unable to make a phone call.

It is estimated that it could save up to 2500 lives a year.

eCall: The crashed car calls 112!



The Commission 's eCall proposal – key points

Privacy: Device is dormant until an accident occurs

Competition: Recitals refer to third-party applications, interoperability

Cost: Likely less than EUR 100, to be included in vehicle price

Scope: Can be based on telematics device, provided it meets all eCall criteria

Outlook: Will speed up development of EUR multibillion telematics market

Oliver Wyman analysis

Impacts of eCall	OEMs /Supplier branded retail chains	Fast fitters/ Branded independent service chains/ Gas station	IAM
Capability and cost	<ul style="list-style-type: none"> Investment to preinstall standard eCall in the vehicles Connection/ switch of OEM call centers to 112 	<ul style="list-style-type: none"> (Heavy) investment (equipment, people, etc.) for installing / repairing /updating the eCall system Adaptation of different vehicles 	<ul style="list-style-type: none"> Increased complexity and cost – possibly excluded from repairing the eCall system Difficulties to adapt to different vehicles
Client relation	<ul style="list-style-type: none"> Lost of direct client contact in the MSD-112 scheme In case the FSD information would be available, increase client accessibility could be expected 	<ul style="list-style-type: none"> Limited direct impact 	<ul style="list-style-type: none"> Limited direct impact
New business opportunities	<ul style="list-style-type: none"> Advantageous position in the eCall system aftermarket <ul style="list-style-type: none"> – Installation – Updating – Repairing Other connectivity systems and value-added services developed around eCall (ex. GPS/auto-guide, car telephone, wifi, remote diagnostics, anti-stolen, etc.) Higher negotiation power over suppliers and telephone/internet operators due to the increase of the volume 	<ul style="list-style-type: none"> New installing / updating / repairing market: <ul style="list-style-type: none"> – eCall – Other connectivity systems and value-added services developed around eCall Tailor-made value-added services developed around eCall <ul style="list-style-type: none"> – Smart phone applications – Connection/remote control (house, garage, etc.) 	<ul style="list-style-type: none"> New installing / updating / repairing market (?)

Looking for motor insurance?

drive like a girl

Home About ▾ How it works ▾ The box ▾ Con

Car insurance that gives you more



< We fit a box to your car to see how you drive You can check out your driving online 'Drive like a girl' and get a discount ...and save even more when you renew >

• • • •

Insurance telematics boosted by

(1) ECJ decision on gender-neutral premiums

(2) Service-driven competition

(3) Big data

(4) eCall

Drive like a girl? Prove it!



A telematics box fitted out of sight at no extra charge lets you prove you 'drive like a girl' and deserve to pay a lower premium.

Money back after 3 months



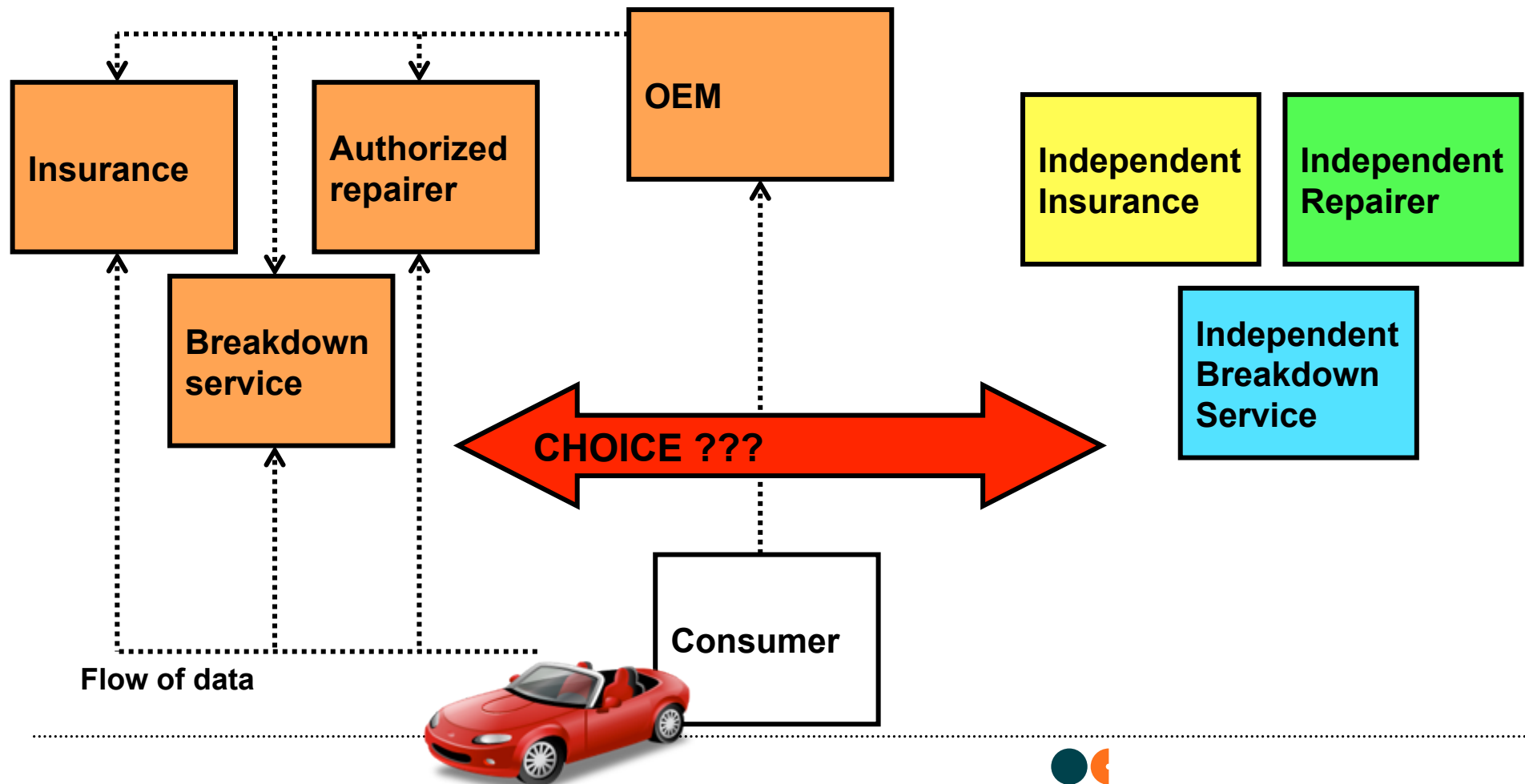
If you 'drive like a girl' you will get a discount after three months. Get a quote now to find out what your discount could be.

Lots of great benefits



Fully comprehensive car insurance, all the benefits of the telematics box plus great extras to keep you and your belongings safe.

bCall, sCall: Market foreclosure potential



Access to Technical Information

- New automotive guidelines confirm that independent operators should receive technical information, tools and training
 - In a non-discriminatory manner, at a fair price, and in a useable form
 - "Independent operators" includes parts suppliers, wholesalers, repairers, publishers...
 - Data to be **provided** that is ultimately needed for repair or maintenance of vehicles
 - Parts catalogue (is internet access to the OEM's EPC enough?)
 - VINs (as a database or on a case-by-case basis?)
 - Fault codes
 - Information on recall actions...
 - Vehicle supplier may **withhold** commercial information and know-how on making parts

E-call/B-Call/S-Call

- Vehicles with communication device for emergencies, breakdowns or regular servicing
 - Where telematics data = technical information, it should be available to independent operators
 - Art. 101(3) unavailable where restraint is not indispensable to attain consumer benefit
 - Art. 102: Essential facilities doctrine
 - Right to access telematics data ("Toll-Collect")?
 - Right to access interface information ("Microsoft")?
- Motorist consumer should be able to freely choose (and change) service provider
- EP IMCO/TRAN (6/2012): Open, interoperable platform accessible to all stakeholders

Euro VI and Technical Information

- Competition law regime refers to type approval framework
- Regulations 715/2007, 595/2009 for heavy duty vehicles
 - Remote diagnostic support
 - Access to parts identification data

‘vehicle repair and maintenance information’ means all information required for diagnosis, servicing, inspection, periodic monitoring, repair, re-programming or re-initialising or the remote diagnostic support of the vehicle and which the manufacturers provide for their authorised dealers and repairers, including all subsequent amendments and supplements to such information. This information includes all information required for fitting parts or equipment onto vehicles;

Manufacturers shall provide a standardised, secure and remote facility to enable independent repairers to complete operations which involve access to the vehicle security system.

Articles 6 and 7 of Regulation (EC) No 715/2007 shall apply *mutatis mutandis*.

eCall Initiative Report

European Parliament, 3 July 2012

The own-initiative report

“Calls on the Commission to ensure that the eCall system is based on an **interoperable and open-access platform** in order to encourage innovation and boost the competitiveness of the European information technology industry on the global markets” and

“Stresses that any additional services to be used in a vehicle – especially when driving – will need to **comply with clear safety, security and data protection** privacy standards, and that compliance with such standards must be measured and controlled”.

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Backup slides

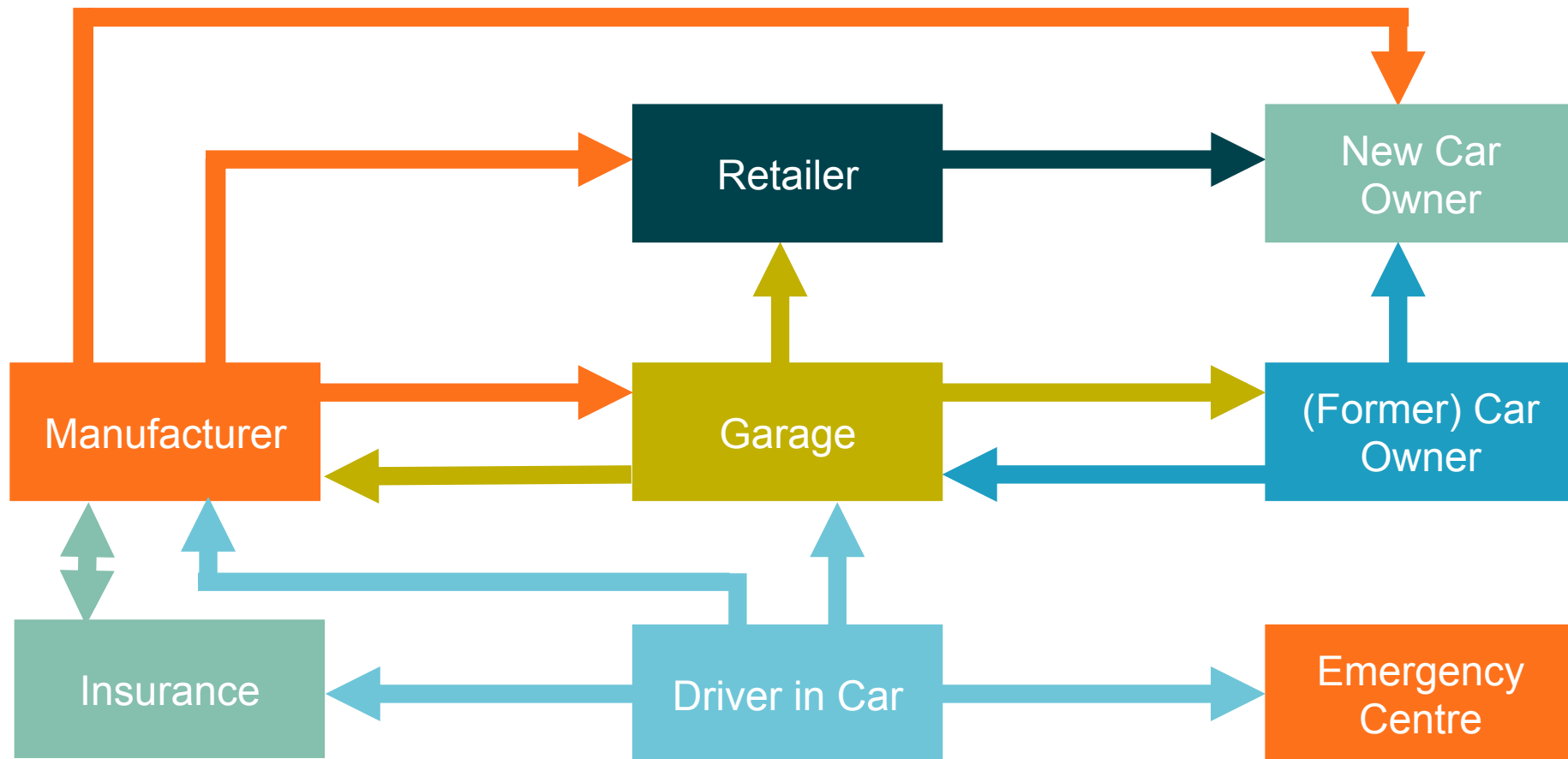
The Commission 's eCall proposal - structure

This draft legislation will ensure that from October 2015, all new models of passenger cars and light duty vehicles would be fitted with 112 eCall and the necessary infrastructure would be created for the proper receipt and handling of eCalls in emergency call response centres - ensuring the compatibility, interoperability and continuity of the EU-wide eCall service.

The Commission adopted two pieces of legislation to help create and implement the system:

- 1) Proposal for a Regulation of the European Parliament and of the Council concerning type-approval requirements for the deployment of the eCall in-vehicle system and amending Directive 2007/46/EC
- 2) Proposal for a Decision of the European Parliament and of the Council on the deployment of the interoperable EU-wide eCall

eCall is just the Beginning – Potential Data Flows



Which data needs to be released?

When considering whether withholding a particular item of information may lead the agreements at issue to be caught by Article 101(1) of the Treaty, a number of factors should be considered, including:

- (a) whether the item in question is technical information, or information of another type, such as commercial information, which may legitimately be withheld;
 - (b) whether withholding the technical information in question will have an appreciable impact on the ability of independent operators to carry out their tasks and exercise a competitive constraint on the market;
 - (c) whether the technical information in question is made available to members of the relevant authorised repair network; if it is made available to the authorised network in whatever form, it should also be made available to independent operators on a non-discriminatory basis;
 - (d) whether the technical information in question will ultimately be used for the repair and maintenance of motor vehicles, or rather for another purpose, such as for the manufacturing of spare parts or tools.
-



Telematics and Euro 5/6

Insofar as telematics data are technical information, type approval of motor vehicles and replacement parts will be refused by the competent authority if the manufacturer does not provide access to such information Regulation 715/2007 (Euro 5/6), as amended by Regulation 566/2011:

"Manufacturers shall provide unrestricted and standardised access to vehicle repair and maintenance information to independent operators",

i.e. "all information required for diagnosis, servicing, inspection, periodic monitoring, repair, re-programming or re-initialising of the vehicle and which the manufacturers provide for their authorised dealers and repairers, including all subsequent amendments and supplements to such information."

"Where vehicle manufacturers provide that **repair and maintenance records** are no longer kept in physical format (...) in the vehicle, but in a central **data base** of the vehicle manufacturer, these records must, with the consent of the owner of the vehicle, also be accessible by the independent repairer in order to allow him to continue to produce such a complete record of the work carried out and to allow the owner of the vehicle to have proof in one single document of all such works."



The Commission 's FAQ #14 on access to tools

Does the guidance on access to technical information set out in the Guidelines also apply to tool manufacturers that wish to have access to such information in order to produce multi-brand repair tools?

“No. When considering whether the withholding of technical information is likely to breach the EU competition rules, the Supplementary Guidelines make a distinction between technical information that will ultimately be used for the purpose of repair and maintenance of motor vehicles, as opposed to technical information used for another purpose, such as the manufacturing of tools.

The objective of the Supplementary Guidelines is thus to ensure that independent repairers have access to the brand-specific repair tools on the same terms as members of the authorised networks.

The agreements between the vehicle manufacturer and the tool manufacturer fall under the general EU competition rules and should be assessed accordingly.”

Multi-Brand Applications

P. Jean, Head of Unit, on Parts Identification Data

(FIGIEFA Congress, Sept 2011, and CLEPA aftermarket conference, Dec 2011):

- "In summary, the legislation mandates the access to vehicle component data to be provided in a way, which will allow for their automatic processing, and should therefore facilitate the efficient design and deployment of **multi-brand IT applications** supporting the identification of alternative spare parts by independent operators."
 - "Component identification is essential so that independent operators can continue to provide competitive products and services to multibrand and authorised repairers."
 - "Article 1(2) of the European database Directive (EC) 96/9: 'database' shall mean a collection of independent works, data or other materials arranged in a systematic or methodical way and individually accessible by electronic or other means."
-

ADLC on access to Technical Information

The French Competition Authority (2012) observes that independents continue to experience problems:

- Lack of information on recall actions, standard values, drawings, updates on service plans
- Single-brand diagnostic equipment too expensive (7 tools for 80% of French park)
- Multi-brand databases suffer from timelag of 6 to 24 months, and may not be as accurate as those supplied on the basis of OEM data
- Parts identification data is a prerequisite for parts catalogues, and thus for supplying repairers - as vehicles become more complex, matching the right part to the right vehicle is increasingly difficult
- "VIN contracts" not always available for publishers, and sometimes prohibit the cross-referencing of IAM parts
- Multi-brand products essential for competitiveness of independent repairers

The Commission 's FAQ #17 on access to electronic service records

- "Existing service and repair records, in whatever form, are to be treated as technical information for the purposes of applying the Supplementary Guidelines. Access to such records will generally be necessary to enable the repairer to tell what operations need to be carried out in order to bring the servicing schedule up to date. An incomplete service and repair record would be likely to reduce the residual value of the vehicle and make it difficult to prove that warranty terms had been complied with. If independent repairers could not update such records, this would likely deter consumers from using independent repairers, and would foreclose such operators from a substantial part of the market."
- Type approval regime for Euro5-Vehicles (Reg 566/2011):
Access to be provided free of charge!

The Commission 's FAQ #15 on technical information and security or safety carve-outs

“Assuming that a vehicle manufacturer is likely to be the only source for the full range of technical information relating to vehicles of its brands (and its agreements concerning the supply of such information thus cannot benefit from the safe harbour created by the motor vehicle Block Exemption Regulation), the answer is generally, no. In such a case involving a (near) monopoly position, flat refusals to grant technical information for supposed reasons of security or safety will usually not be compatible with EU competition rules. Vehicle manufacturers are in principle required to release technical information, for which they are the only source, to independent operators. Only exceptionally may a failure to provide such information be justified for safety or security reasons.”

Additional points to ponder

Contractual liability:

Service promise in contract and advertisement will determine the responsibilities of the telematics provider. Define your service promise with care!

Product liability and Product Safety:

EU importers liable like manufacturers for personal injury and damage to consumer property

Cooperation:

Guidelines on horizontal cooperation to be observed in creation of standards, joint purchasing, joint marketing

Helping the police compete with fast drivers?

TomTom Sold Speeding Data To Police, Cops Used It To Bust Drivers

By [Marc Perton](#) on April 29, 2011 4:00 PM



(jkonrath)

GPS-maker TomTom has had to apologize for selling speeding data gathered from consumers' navigation devices to Dutch police, who used the info to set speed traps for drivers. The Amsterdam-based company says that it didn't know that the cops would use the information for law enforcement, and that no personal information tied to specific drivers was shared with police.

CEO Harold Goddijn said the company has stopped the practice, and that it was sharing data in the interest of public safety:

“

We are now aware that the police have used traffic information that you have helped to create to place speed cameras at dangerous locations where the average speed is higher than the legally allowed speed limit. We are aware a lot of our customers do not like the idea and we will look at if we should allow this type of usage.

”

According to Goddijn, all data was collected anonymously, and customers could opt out of providing the information. With GPS sales falling, TomTom has said it is looking for other ways to bring in cash, and will continue selling traffic data to authorities, though the company says it will change its licensing agreements so that the information can't be used to target consumers.



European Data Protection Directive (95/46/EC)

The current Directive protects *"any information relating to an identified or identifiable natural person"* against *"collection, recording, ... storage, ... use, disclosure ..."*.

Telemetry data qualifies as personal data, unless the driver remains anonymous and the owner is not a natural person.

As a result, no collection, transfer or usage of telemetry data is legally permissible unless justified by law or express consent.




eCall Legislation

Article 7 lit d) of Directive 95/46/EC:

"... personal data may be processed ... if ... processing is necessary in order to protect the vital interests of the data subject"

A transfer of personal data is only being initiated in emergency situations and therefore admissible.



Transferred Data:
VIN, GPS-position &
heading, language
of headunit and
information
manually given by
the person
concerned



Options for a robust structure

Legal justification	Works ...
protection of data subject's vital interests	well in emergency situations vis-à-vis everyone
performance of a contract	only vis-à-vis contractual partner
compliance with a legal obligation	vis-à-vis authorities upon their request
purposes of a legitimate interest	hardly – because hard to argue
consent of the person concerned	vis-à-vis everyone unless revoked by anyone
Anonymized (aggregated) data	vis-à-vis everyone

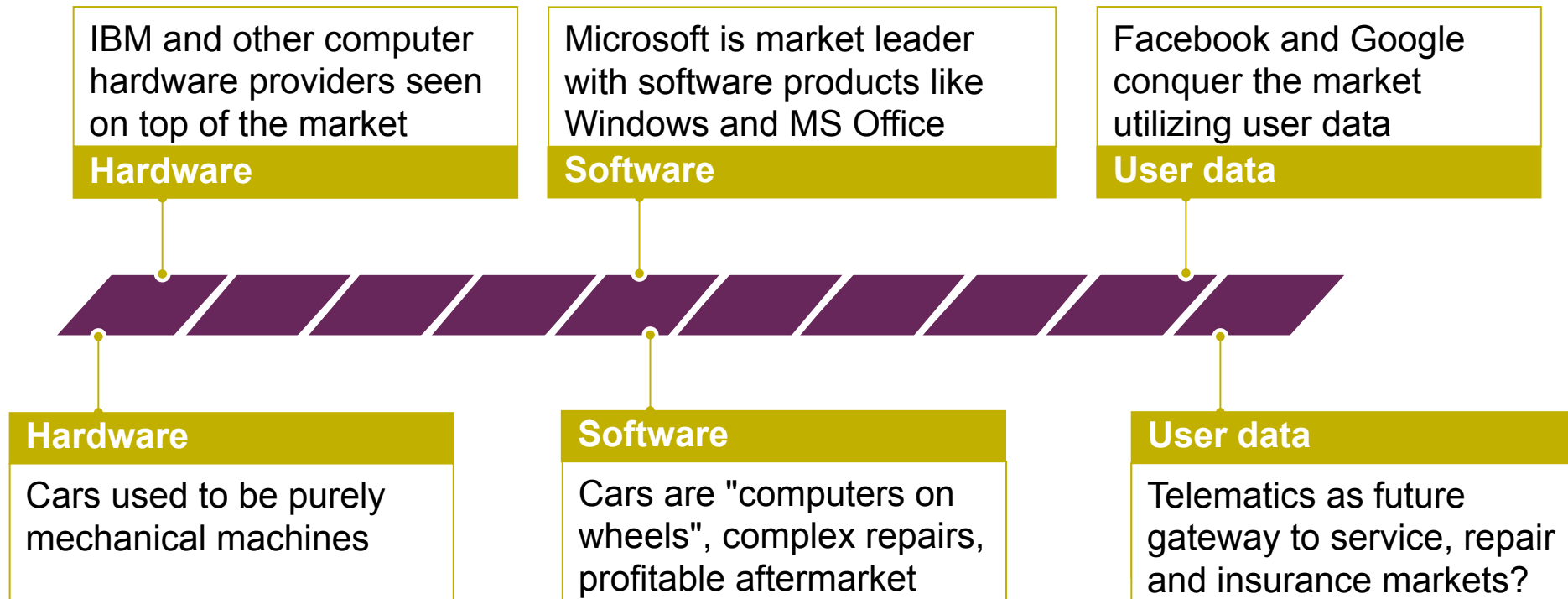


Status quo of the EU General Data Protection Regulation

- Initially adoption planned for 2014
 - Entry into force after a two year transitional period
 - Currently delayed legislative procedure:
 - Massive lobbying
 - Approximately 3,000 amendments
 - The Regulation might introduce obstacles:
 - Extended scope of "*personal data*"
 - Limitations for consent
 - Far reaching ban of undefined "*profiling*"
-



Will the automotive sector be like the IT sector?



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