

# VACC Submission:

## Inquiry into Future Directions for the Consumer Data Right

23 April 2020



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## About VACC

The Victorian Automobile Chamber of Commerce (VACC) is Victoria's peak automotive industry association, representing the interests of more than 5,500 members in over 20 retail automotive sectors that employ over 50,000 Victorians.

VACC members range from new and used vehicle dealers (passenger, truck, commercial, motorcycles, recreational and farm machinery), repairers (mechanical, electrical, body and repair specialists, i.e. radiators and engines), vehicle servicing (service stations, vehicle washing, rental, windscreens), parts and component wholesale/retail and distribution and aftermarket manufacture (i.e. specialist vehicle, parts or component modification and/or manufacture), and automotive dismantlers and recyclers.

VACC is also an active member of the Motor Trades Association of Australia (MTAA) and contributes significantly to the national policy debate through Australia's peak national automotive association.

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## Responses to Terms of Reference items

### 1. Expand the functionality of the Consumer Data Right

Whilst the Consumer Data Right (CDR) is initially being implemented in the banking sector in Australia, with the energy sector to follow, VACC advises that the automotive sector should also be targeted for future roll out of the CDR.

Modern motor vehicles are constantly collecting data much the same way as a black box flight recorder does on a commercial jet airliner. The digital transmission of data is performed via wireless transmission directly to the car manufacturer. This data commonly known in the automotive industry as “Telematics,” can include the following information:

- consumer’s driving habits
- personal comfort settings
- service and repair history
- predictive maintenance and identification of vehicle faults
- personal communications, i.e. phone, email
- GPS location and travel routes
- physical attributes such as weight, physical attentiveness
- consumers personal interests and shopping habits via connected shopping applications
- fuel consumption.

From a digital technology perspective, today’s cars have the equivalent computing power of 20 personal computers, featuring an estimated 100 million lines of code, and processing up to 25 gigabytes of data per hour. This capacity is set to triple over the decade through the rollout of electric and autonomous vehicles, and as more digital technologies are added to enhance a vehicle’s operation, safety, maintenance and the comfort systems of its occupants.

Currently, only car manufacturers have access to and complete control over of this data. This vehicle data is often transmitted and used for commercial advantage by car manufacturers without the vehicle owner’s knowledge or consent. Car owners therefore have a limited ability to keep track of any shared data or revoke its use. This complete control by car manufacturers over personal data can act to severely limit competition in the market by restricting the consumer’s choice for automotive products and services, such as directing consumers where they can have their vehicle serviced and repaired. In such cases, independent vehicle repairers are completely bypassed which can create greater inconvenience and costs for consumers, and in some cases may place the safety of the driver, occupants and other road users at risk.

Software, telecommunications and advertising companies are also increasingly entering the automotive data space. It is estimated that the overall revenue pool from car data monetisation on a global scale will be between \$450-\$750 billion by 2030. Vehicle manufactures are becoming increasingly active in car data analytics to better understand how customers use their cars, shape their repair and maintenance choices, and improving the link between dealers and consumers

allowing for real time, booking of vehicle check-ups<sup>1</sup>.

Internationally, regulators and government institutions, particularly in Europe and USA, are setting the standards and considering amendments to their right to repair laws relating to the collection and sharing of car data. The Australian Government recently committed to legislation based on *Recommendation 4.1* by the ACCC in its report, *New Car Retailing Industry Market Study* in December 2017. Recommendation 4.1 calls for a mandatory scheme to be introduced for car manufacturers to provide independent repairers with access to the same technical information that is made available to their authorised dealers and preferred networks including environmental and security-related information. Currently, telematics data is not part of the scope of this data sharing law.

VACC further advises that a survey conducted for the AutoCare Association in the US indicates that 86 per cent of consumers believe vehicle owners should have direct access to their vehicle data. Nearly 9 in 10 consumers believe that vehicle owners should be able to control who has direct access to their vehicle's data<sup>2</sup>.

## **2. Ensure the Consumer Data Right promotes innovation in a manner that is inclusive of the needs of vulnerable consumers**

VACC strongly maintains that allowing consumers access to the data collected by their vehicles along with the ability to choose how their data is used and by whom, will provide a platform for increased competition, cost savings and transparency across the automotive sector. This initiative will encourage significant innovation as service providers will need to review their business models in order to meet the demands of their customers. With access to service and repair data, service providers will be required to review and invest in data privacy protection measures as well as implement new measures to monitor the performance and safety of their client base.

The quality of communication between parties will also improve significantly, as consumers are kept abreast of any changing vehicle conditions and are alerted of any potential safety risks in real time. This will allow vulnerable consumers in particular to make better informed decisions regarding the inspection, service and repair of their vehicles. It is also expected that this will generate new and improved service solutions by trusted third-party service providers, thereby enhancing the overall customer experience according to an individual's needs.

The benefits of innovation extend beyond the vehicle servicing and repair sector. There is the potential for app-based fuel price comparison tools to be integrated into a vehicles infotainment service which is based on driving history, onboard fuel metering devices and location, to then notify the driver of nearby real time fuel prices. Governments can also potentially benefit from data sharing arrangements as the impending loss of fuel excise revenues due to the uptake of electrified vehicles can be replaced by a road user charging scheme.

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<sup>1</sup> [McKinsey&Company, Monetizing car data](#)

<sup>2</sup> [Your Car Knows When You Gain Weight](#)

Other areas where vehicle owners may see direct benefits include:

- insurance - new pricing models based on driving history and behaviour
- emergency services- tracking of collisions, state of vehicle occupants, and tracking vehicles in cases of theft
- traffic management departments - live updates directly to the driver of traffic conditions and route planning
- service and maintenance providers - remote diagnostics and prognostics.

### **3. Leverage Consumer Data Right (CDR) infrastructure (such as the Data Standards Body and accreditation regime) to support the development of broader productivity enhancing standards and a safe and efficient digital economy.**

VACC advises that under the CDR infrastructure, automotive repairers and other related industry service providers will need to be an accredited data recipient in order to satisfy the obligations and provide access to data on the goods and services they have on offer under this law. This includes having appropriate systems in place to ensure that the privacy and security of information is in line with the technical standards outlined by the Data Standards Body. Businesses may be required to designate appropriate resources towards responsibility for data protection and compliance.

### **4. Leverage the developments of the Consumer Data Right with other countries that are developing similar regimes to enhance opportunities for Australian consumers, businesses and the Australian economy**

As outlined, vehicle data sharing arrangements are currently being developed in the European Union (EU) and the US. The *General Data Protection Regulation* and *ePrivacy Regulation* empowers individuals to explore how their data is being stored and used. A report prepared for the European Commission on Access to In-vehicle Data and Resources<sup>3</sup> assessed the legal, technical and cost benefit implications of the most likely scenarios for access to in-vehicle data and associated resources in the near future with the objective to address the risks of an open ended platform.

Similarly, work is currently underway in the state of Massachusetts USA towards an amendment to the *Right to Repair Act* with the introduction of Bill S.133<sup>4</sup> that seeks to address the transmission of electronic data and access platforms with the following proposed insertions to the law:

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<sup>3</sup> <https://ec.europa.eu/transport/sites/transport/files/2017-05-access-to-in-vehicle-data-and-resources.pdf>

<sup>4</sup> <https://malegislature.gov/Bills/191/S133.Html>

**SECTION 3. Section 2 of chapter 93K is hereby further amended by striking subsection (f) and inserting in place thereof the following subsections:**

*(f) Commencing in model year 2022 and thereafter a manufacturer of motor vehicles sold in the Commonwealth that utilizes a telematics system shall be required to equip such vehicles with an inter-operable, standardized and open access platform across all makes and models that is capable of securely communicating all telematics vehicle data in a standardized format via direct data connection to the platform. Said platform shall be directly accessible by the owner or lessee of the vehicle through a mobile-based application and upon the authorization of the vehicle owner or lessee, all mechanical data shall be directly accessible by an independent motor vehicle repair facility or a class 1 dealer licensed pursuant to Section 58 of Chapter 140 limited to the time to complete the repair or for a period of time agreed to by the vehicle owner or lessee for the purposes of maintaining, diagnosing and repairing the motor vehicle. Access also shall include the ability to send commands to in-vehicle components if needed for purposes of maintenance, diagnostics and repair. All data collected by the telematic system is exclusively owned by the motor vehicle owner.*

*(g) The Attorney General is hereby directed to establish a consumer motor vehicle telematic system notice that includes, but is not limited to, (i) explaining what is motor vehicle telematics, (ii) the data collected and stored by the telematic system, (iii) the capability of the consumer to access the vehicle's telematic data through a mobile device and (iv) that an independent repairer with the permission of the consumer, can access the telematic mechanical repair information for vehicle repair purposes. Said notice shall contain a consumer signature section specifying that the consumer has read the telematic consumer system notice form and a section that provides the consumer the capability to assent or prohibit all telematic system data generated by the telematic system being transmitted from the consumer's vehicle to the vehicle manufacturer. The consumer notice shall also inform the consumer that they may amend their signed consumer telematic system notice by visiting any new car dealership that sells the consumer's vehicle brand or using an online mobile application.*

## Conclusion

The Consumer Data Right represents a significant reform that provides consumers with greater choice and control over how their data is used and disclosed. It also aims to allow consumers to safely access their own data in a useable form and to direct a business to securely transfer that data to an accredited, trusted data recipient of their choice.

Modern motor vehicles contain huge repositories of personal information, and it is paramount that consumers are aware of the array of data collected by their vehicles and how that data is being used by car manufacturers. To this extent, standardised vehicle interfaces are a necessary requirement in order to gain access to vehicle data. Without the development of such interfaces, vehicle manufacturers will continue to have a monopoly on the data generated by their vehicles, thereby making it largely inaccessible to consumers and third parties in general. This acts to severely limit the level of competition, service offerings and innovation across the automotive industry, to detriment of consumers.

VACC strongly supports the extension of the functions of the Consumer Data Right to the automotive sector, so that consumers are afforded the same data privacy protections in future as per other sectors of the economy. Consumers must be permitted to opt in or out of any data sharing arrangement and where data is linked to the maintenance and repair functions of a vehicle, consumers should be able to exercise their right to share their data with trusted third-party service providers of their choice. The sharing of vehicle data has the potential to create many financial, safety and social benefits for the end user.