

14 October 2024

ETA-POSITION ON DATA TRUSTEE

Executive Summary

Vehicle data is a driver of technological innovations and new business models. They are also the basis for shaping relationships – between customers, vehicle manufacturers, suppliers and third parties that offer vehicle-related services and business models. The European Data Act and possible sectoral regulation at European level are intended to increase data availability and its use. At the national level, the 2021 coalition agreement mentions data trustee models as a way to guarantee a competition-neutral use of vehicle data. At the same time, they consider the access needs of users, private providers and government bodies, as well as the interests of the companies and developers concerned.

This position paper provides recommendations for data trustee models regarding vehicle data. If regulatory requirements are set for data trustee models for vehicle data, the ETA proposes that these recommendations are considered when designing a possible regulation.

The recommendations mainly refer to data trustee models within regulatory requirements. In addition, the ETA provides recommendations for designing data trustee models between contracting parties in the private sector. They can also be used as a reference for possible regulatory requirements for data trustee models in other sectors.

This position is based on the ETA short paper on the design of a possible sectoral regulation for access to vehicle data, functions, and resources. Here, the ETA has developed recommendations for tasks, objectives, and implementation options.

The tasks of data trustees should only relate to the reading of data, but not to the activation and use of functions and resources of the vehicles and services. Further private sector arrangements are conceivable by mutual agreement between the contracting parties. These are not addressed in this paper. However, the ETA recommends that the freedom of design for private-sector data trustee models should not be restricted.

A data trustee model must comply with data protection regulations, in particular the General Data Protection Regulation (GDPR) and ensure the user's data sovereignty.

Key points

Data trustee models are intended to fulfil the following tasks¹:

- Safeguarding integrity: No one can manipulate data unnoticed.
- Safeguarding non-repudiation: Proof of the origin of the data is available.
- Safeguarding confidentiality: Data is protected from unauthorised access.
- Safeguarding data deletion in accordance with GDPR: Auditing the deletion.

The tasks of a data trustee model described above can already be fulfilled today using existing technological solutions.

Data trustee models should not intend for data storage at the trustee in order to avoid redundancies and data retention. The storage of the data should remain with the data holder.

The tasks of the data trustee can include both anonymisation of the data requester and safeguarding the non-monitoring of the data requester's business activities in the case of 'safeguarding confidentiality'.

1. Use cases for data trustee models are conceivable in the area of sovereign tasks as well as in the private sector. To justify the use of a data trustee model, a concrete necessity that cannot be addressed in any other way or the explicit wish of the user, could be the basis.
2. Data trustee models are to act as a neutral third party for these use cases and utilise established data access options such as the extended vehicle/backend. The prerequisite for this is always that the vehicle user gives their consent to this data access. Direct access to vehicles is not recommended, particularly for cybersecurity reasons.
3. Private-sector companies or public-sector organisations should only implement these tasks in the data trustee model if there are clear tasks and responsibilities for these institutions and they clearly generate added value.
4. A general application of data trustee models in data exchange would lead to increased costs, inefficiencies, and complex processes which would make data utilisation and new data-based business models more difficult.
5. Data trustee models should be excluded from operating a business model with the data they manage in trust beyond their data trustee services.
6. The implementation and operation of data trustee models should be financed through the added value they generate. This added value should be reflected in corresponding user fees for the services of a data trustee model. Public financing of data trustee models should be considered if the client is also public.
7. Data trustees can function as actors in the interest of users on data marketplaces: they can offer their services and data via data marketplaces.
8. In terms of quality and efficiency, several data trustees should be able to offer their services in competition.

Relevant regulatory requirements and ETA short papers that form the framework for the ETA position on the data trustee

General Data Protection Regulation: The GDPR safeguards the protection of personal data with its legal principles (lawfulness of processing in good faith, transparency, purpose limitation, data minimisation, accuracy of data, storage limitation, integrity, confidentiality, and accountability).

Data Governance Act: The DGA aims to ensure trustworthy data exchange, including by establishing neutral data intermediaries that connect individuals and businesses with data users. These data brokers cannot use the data for their own business models.

Data Act: The DA increases the availability of data in Europe, including by requiring data generated using connected objects to be made available to users and authorised third parties. Users of connected objects can thus participate in the added value of the data generated.

"Access to in-vehicle data, resources, and functions" (sectoral regulation): This draft regulation is expected to set out how third parties can access in-vehicle data, functions, and resources - complementing the Data Act.

The **ETA short paper "Using the potential of the data strategy for the transformation of the automotive industry"** shows potential and fields of action for increasing the availability and quality of data.

The **ETA short paper "Recommendations for action to increase data use and for the implementation of possible sectoral regulation"** provides specific recommendations for structuring access to vehicle data, functions, and resources and increasing data use.

1 Need for data trustee models

The coalition agreement provides for a competition-neutral use of data: Corresponding trustee models are to take appropriate account of the access needs of users, private providers, and state bodies as well as the interests of affected companies and developers.

"Access" refers to reading access to data generated by vehicles or associated services, not the activation or control of functions or resources.

In the automotive environment, a data trustee model is one of several possible solutions for regulating access to such data. In certain cases, the use of a data trustee may be the right choice, for example if there are conflicting interests in the use of data between original equipment manufacturers (OEMs), suppliers, service providers, and users. Such use cases are conceivable, for example, in the field of tax law, financing, fleet management (company cars, car sharing, rental cars, etc.), or in the field of automated driving.

Data trustee models are always necessary when there are conflicts of interest between the parties involved and they want transparency while maintaining confidentiality (comparable to the benchmarking process among competitors). In the automotive environment, these parties are characterised by the fact that data is generated and held on one side, while data is required on the other side to offer products and services in a complementary or competitive manner.

In addition, use cases can be part of the sovereign sector. In such cases, the use of data trustees could be required by regulation.

Alternatively, the optional use of data trustee models is conceivable, but this should then be granted and enforceable by regulation.

A general application of data trustee models for all data access should not be implemented as the integration of an additional actor between the data source and the data users makes the processes more complex and inefficient. Further costs would be incurred, and processes would become slower compared to releasing data directly at the data source to the data requester.

2 Tasks of data trustee models

For the purpose of addressing the conflicting interests and the desire for transparency with simultaneous confidentiality, data trustee models should address the following tasks:

- Safeguarding integrity: No one can manipulate data unnoticed.
- Safeguarding non-repudiation: Proof of the origin of the data is available.
- Safeguarding confidentiality: Data is protected from unauthorised access.
- Safeguarding data deletion according to GDPR: Auditing of deletion.

The tasks of data trustees should only relate to the reading of data, but not to the activation and use of functions and resources of the vehicles and services.

When safeguarding confidentiality, it is not necessary for data requesters to disclose their business model, neither to the data trustee nor to the data holder. To ensure confidentiality, the data trustee can also offer anonymisation of the data requester vis-à-vis the data holder if necessary, so that non-monitoring of the data requester's activities by the data holder is ensured.

The tasks of a data trustee model described above can already be fulfilled today using existing technological solutions.

Data trustee models should not provide for data storage at the trustee to avoid redundancies and data retention. In principle, the storage of the data should remain with the original data holder, even if data trustee models are used.

A data trustee model must comply with data protection regulations, in particular the General Data Protection Regulation (GDPR) and ensure the user's data sovereignty.

3 Implementation of data trustee models

The coalition agreement stipulates a data institute to establish data trustee models. It should focus on implementing the requirements from the use cases. Ideally, it uses established solutions and technologies.

The required vehicle data should always be accessed via the manufacturer's backend, as existing solutions can be used here that do not jeopardise the system integrity and cybersecurity of the vehicles and are proven to work reliably.

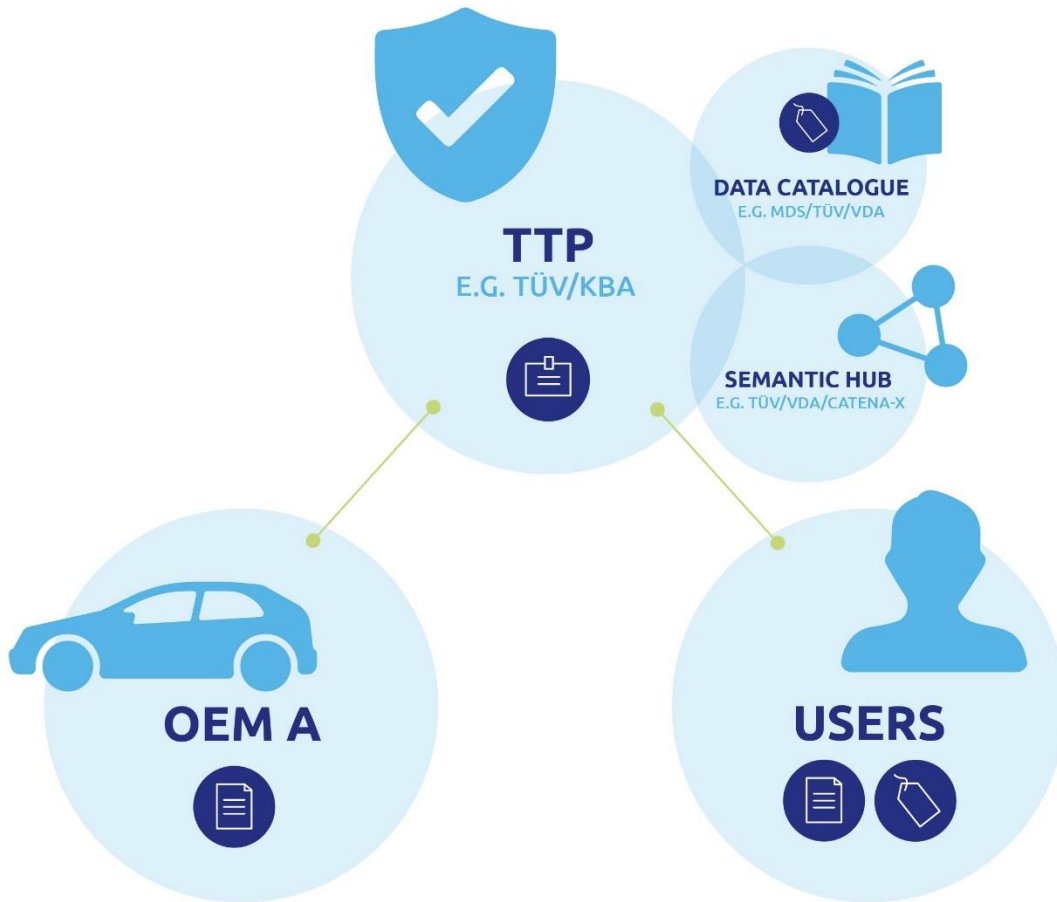
Direct access to vehicles is not an option. The reasons for this are cybersecurity, data protection, complexity of technical requirements and the associated system integrity, as well as the costs of data access and transmission.

The aforementioned requirements for data trustee models, namely integrity, non-repudiation and confidentiality of the data, can already be met today using existing technological solutions: Distributed storage of unique cryptographic IDs (hash) ensures that the data has not been manipulated. Users authorise data access in the vehicle. This ensures that only authorised users can release the data. For this purpose, the established processes for releasing data in the vehicle which are protected from access by third parties can be used. Connectors ensure that only authorised persons can access the data. Data encryption and certificates for decryption increase the data's confidentiality.

Presenting itself as an alternative is the use of open lock-in-free technologies. For example, mileage can be stored regularly. Eligible users can access this data through suitable, decentralised marketplaces that are accessible to everyone.

Data trustee models become trustworthy through neutrality as well as transparent and traceable processes. The 'by technology' solutions described above obtain their trustworthiness through certification. Such certification could be carried out by the Data Institute, for example. This makes ongoing auditing superfluous.

ARCHITECTURE



OEM A can prove that the data are original.

The TTP can confirm that OEM A has not manipulated the data.

-  dataset
-  metadata of dataset
-  unique cryptographic ID (hash)

Figure 1: Exemplary architecture for implementing the requirements (Source: ZF Friedrichshafen AG)

TTP: Trusted third party

TÜV: Technischer Überwachungsverein or Technical Inspection Association

KBA: Kraftfahrt-Bundesamt or Federal Motor Transport Authority

MDS: Mobility Data Space

VDA: Verband der Automobilindustrie e. V. or German Association of the Automotive Industry

4 Financing the data trustee model

The data trustee model addresses specific requirements for data from use cases: Data users receive added value by implementing the tasks of a data trustee model. This added value should be compensated by a fee for the use of the data trustee model.

Providers of data trustee models should be able to recover the costs incurred from the commissioning parties plus an appropriate profit margin.

Financial coverage of the data trustee model by the public sector should be considered if a client belongs to the public sector and the commissioning serves the fulfilment of sovereign tasks.

5 Interaction with other data market participants

Data trustee models can be integrated into existing data marketplaces. For example, integration into the Mobilithek/National Access Point (NAP) or the Mobility Data Space (MDS) would be conceivable. The NAP or MDS offer transparency of the available data and bring suppliers and buyers together. Functionalities that fulfil the tasks of the data trustee models can be integrated into the existing technological solutions for data exchange. Thus, the NAP or MDS could offer the tasks as an additional service for the marketplace participants. The fulfilment of the tasks of the data trustee models can also be offered via neutral servers. In this case, the additional service of not disclosing the data recipient to the data holder can be provided. However, integration into existing data marketplaces is not a prerequisite for implementing a data trustee model, as OEMs are already directly integrated into data marketplaces such as MDS.

6 Recommendation

- Clear definition of the functions of data trustee models that are fulfilled within the framework of data protection regulations.
- Implementation of data trustee models in the private sector not comprehensively and mandatory, but as a bookable value-added service for requesters such as fleet managers, etc.
- Clear agreement that the tasks of data trustees should only relate to the reading of data, but not to the activation and use of vehicle and service functions and resources.

About the Expert Group

The Expert Group Transformation of the Automotive Industry (ETA) is an independent advisory body of the Federal Ministry of Economic Affairs and Climate Action (BMWK). The Expert Group develops target and recipient-based recommendations for action for politicians, business and society in general, which can be used to successfully shape long-term structural change in the industry. The overarching goal is to achieve climate neutrality, in addition to securing value creation, jobs and apprenticeships in Germany as an automotive location.

The ETA consists of 13 people from the scientific community, business and society who were appointed by Federal Minister Dr. Robert Habeck for the 20th legislative period. Other experts, in addition to relevant institutions and stakeholders, are involved in the work of the ETA via flexible and agile work formats. The members receive no remuneration or expense allowance for their involvement in the ETA. The group of Experts is supported by a process and scientific monitoring team commissioned by the BMWK. The ETA has a sister body, the Expert Advisory Council on Climate Action in Mobility (EKM) at the Federal Ministry for Digital and Transport (BMDV). Both bodies are integrated into the Federal Government's Transformation of the Automotive and Mobility Industry Strategy Platform (STAM).

The ETA is responsible for the content. It develops statements, position papers and reports partly in its working groups, then deliberates and decides on them in plenary session, and subsequently publishes them under its own responsibility.

PUBLISHING DATA

AUTHOR: Expert Group Transformation of the Automotive Industry (ETA), Reinhardtstraße 58, 10117 Berlin / <https://expertenkreis-automobilwirtschaft.de>

PUBLISHER: Federal Ministry of Economic Affairs and Climate Action (BMWK)