



## “Who’s On First?” – The State of the Vehicle Data Access Debate

### **Greg Scott, Executive Director of the Global Alliance for Vehicle Data Access, Reviews Recent Developments on Vehicle Data Access – and Tries to Make Sense of Them**

The past couple of months have witnessed a dizzying array of announcements and publications with respect to vehicle data access. To the un- or partially-initiated, these announcements could be confusing – is the debate over vehicle data access “over” and vehicle owners can move on to other public policy concerns? Let’s review the developments and the reader can reach his or her own conclusion:

- 1-8-23 – The American Farm Bureau Federation and John Deere announced a “Memorandum of Understanding” (MOU)(Attachment #1) regarding farmers repairing their own agricultural equipment, including use of data generated by that equipment. The MOU is a positive sign of a “détente” in the farm equipment “right to repair” debate, but vehicle owners must note that the MOU excludes all safety devices from the coverage of the MOU, and as a result excludes the data being generated by those devices. Obviously, safety equipment is very important, but the exclusion under is MOU could cover something as simple as whether a seat belt has been fastened. Case and New Holland signed a similar MOU with AFBF on 3-9-23. Due to their restrictions on safety devices, these MOUs are of interest to vehicle owners and telematics providers engaged in the policy discussion over vehicle data access, but do not represent a path for those stakeholders in the future.
- 1-23-23 – A broad cross-section of stakeholders in Europe sent a joint letter (Attachment #2) to the President of the European Commission urging quick action on in-vehicle data legislation. The joint letter apparently was in reaction to a strong advocacy push against action by the EC by a group of vehicle manufacturers. Thus, the debate over vehicle data access continues in Europe and likely will not be concluded until 2024 at the earliest.
- 2-7-23 – Congressmen Buddy Carter (R-GA) and Darren Soto (D-FL) sent a “Dear Colleague” to all U.S. House of Representatives and United States Senate members announcing the creation of the “Congressional Vehicle Data Access Caucus” (Attachment #3). The VDA Caucus will convene to address who “owns” or controls all vehicle data (not only repair and maintenance data) by bringing together all interested stakeholders to provide input into this important policy question. The goal of the VDA is to seek consensus among stakeholders in drafting federal vehicle data access legislation. The VDA Caucus is supported by the American Alliance for Vehicle Owners’ Rights (AAVOR)([www.aavor.org](http://www.aavor.org)), an ad-hoc coalition of fleet trade associations, insurers, telematics companies and vehicle

recyclers. Interestingly, the Alliance for Automotive Innovation announced that it welcomed the creation of the VDA Caucus and looked forward to the dialogue among diverse stakeholders.

- 2-9-23 – Congressman Neal Dunn (R-FL) introduced the “REPAIR Act” (Attachment #4) in the House of Representatives. The bill was referred to the House Energy and Commerce Committee. The REPAIR Act is supported by the Auto Care Association and the CAR Coalition – a trade association that represents aftermarket parts manufacturers and a coalition of aftermarket parts manufacturers and other non-fleet stakeholders. The REPAIR Act is an important legislative initiative, but the bill’s goals are different than the goals of most vehicle owners and telematics companies. The REPAIR Act does address a vehicle owner’s right to “repair and maintenance” data – a positive set of provisions in the bill – but repair and maintenance data is only a fraction of vehicle data of importance to vehicle owners and telematics companies in 2023. The REPAIR Act also seeks to revamp U.S. design patent law – which has little if anything to do with vehicle data access.
- 3-7-23 – Massachusetts Attorney General Andrea Joy Campbell – perhaps in a sign that her patience with waiting for a decision from a federal judge had run out – filed a document (Attachment #5) stating that she would no longer refrain from enforcing the Massachusetts Data Access Law, which was approved overwhelmingly by Massachusetts voters in 2020. The Alliance for Automotive Innovation sued to stop the implementation of the 2020 Massachusetts “Right to Repair” referendum and the issue has languished before a federal judge since then. Again, the Massachusetts litigation is focused on vehicle repair and maintenance data, as opposed to all vehicle data, which makes the outcome of this litigation of interest, but not the final word for fleets and telematics providers.

Lot of activity, lots of players in the debate, and perhaps some modest progress for vehicle owners. But there is a long road to travel before the issue of control of motor vehicle data is settled to the satisfaction of those that own the vehicles.

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