

Delegated Act on access to on-board diagnostics (OBD) of vehicles
Establish legal certainty as quickly as possible by focussing on the essential aspects
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Background

Consistent cybersecurity standards are essential to ensure the safety of connected and autonomous vehicles. The United Nations Economic Commission for Europe (UNECE) has issued corresponding regulations that have been in force since July 2022.¹ They oblige manufacturers to take appropriate measures according to the current state of the art in science and technology to guarantee the cybersecurity of vehicles throughout their entire service life.

A key aspect is preventing unauthorised and potentially malicious access. The so-called *Carglass* ruling by the European Court of Justice (ECJ)² has led to various questions on how to harmonise vehicle security standards and Regulation (EU) 2018/858³ with regard to access to the OBD port.

As the European Commission (COM) sees legal uncertainties in the aftermath of the *Carglass* decision, it is currently working on a delegated act to resolve these uncertainties. The COM aims to officially adopt it in the first quarter of 2025.

Problem

On the basis of the ECJ interpretation of Regulation (EU) 2018/858 and according to the interpretation of this decision by national courts, manufacturers are unable to fully ensure cybersecurity of the vehicles. For various particularly security-critical diagnostic jobs in car service workshops, it is inevitable to provide for an authentication process in order to ensure that only authorised parties access the vehicle. This is the only way for manufacturers to prevent misuse and a negative impact on the vehicle cybersecurity system by unauthorised persons via the OBD port⁴. This means that a lack of authentication leads to potential risks to life and limb because unauthorised persons could manipulate safety-critical vehicle functions. Moreover, only a technical authentication process enables the necessary fault analysis and investigation of incidents of damage to vehicle users.

During the ongoing consultations on the upcoming delegated act, some stakeholders have demanded to expand the delegated act with thematic areas that have nothing to do with the legal uncertainty that the *Carglass* decision has caused. While the ECJ ruling deals exclusively with the access to the OBD port, these stakeholders aim to broaden their access to other vehicle interfaces. Such an extension of the delegated act would lead to lengthy discussions between the stakeholders involved. There would need to be extensive and detailed consultation on whether and how extended access can be granted without jeopardising cybersecurity and thus the safety of passengers.

In this case, the COM's planned timetable could not be adhered to! The urgently needed establishment of legal certainty could not be achieved, resulting in negative consequences for the authorities, market participants and consumers.

Solution

The delegated act should focus entirely on defining the applicable requirements for the use of the OBD port in line with Regulation (EU) 2018/858 and the UNECE provisions and thus to re-establish legal certainty for all market players.

Further requirements for type approval would unnecessarily delay the decision-making process; they would be detrimental to cybersecurity and thus ultimately also to vehicle safety and to consumers.

For any further expansion of access to vehicle data (and functions), the effects of the Data Act should be awaited and comprehensively analysed. Only on this basis, it can be determined to what extent further regulation is necessary and how additional data access can be implemented in compatibility with systems to ensure the safety of vehicle owners. These issues should then be clarified as part of an ordinary legislative procedure in which all stakeholders are appropriately involved.

¹ [UN Regulation No. 155 - Uniform provisions concerning the approval of vehicles with regards to cyber security and cyber security management system](#)

² [ECJ ruling of 05.10.2023 - C-296/22, often referred to as the "Carglass ruling"](#)

³ [Regulation \(EU\) 2018/858 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles](#)

⁴ Universal connection in the vehicle via which the on-board diagnostics (OBD) data can be accessed