



To : *European Data Protection Board's*

- *Public Consultation* -

Linden, 10th March 2021

Subject: *Comments regarding Guidelines 01/2022 on data subject rights - Right of access Version 1.0 - Adopted on 18 January 2022*

Stellantis is a leading global automaker and mobility provider that offers connected, affordable and safe mobility solutions. Stellantis ambitious electrification and software strategies and the creation of an innovative ecosystem of strategic, game-changing partnerships are driving our transformation to a sustainable mobility tech company. In this context and as highlighted in the recently revealed Long-Term Strategic Plan, the customer is at the heart of Stellantis design and offer of services and products and, as a consequence, we put significant effort into ensuring that our data subjects have expanded rights and choices in a variety of areas such as access, deletion and the restriction of processing certain related data.

Stellantis welcomes the European Data Protection Board's ("EDPB") draft guidelines on the processing of personal data relating to *Guidelines 01/2022 on data subject rights - Right of access* ("Guidelines").

Stellantis supports the EDPB's efforts to ensure privacy and data protection are maintained as increasing amounts of data are collected and processed in the context of the new technologies.

Stellantis welcomes the opportunity to provide the following comments to the European Data Protection Board's consultation on the drafts *Guidelines* and invites the EDPB to evaluate the following considerations and requests for clarification on the issues highlighted below. Our comments below refer to the respective paragraph in the document.

Executive summary

General considerations on the assessment of the data subject's request

"[...] However, the data subject is not required to use these specific channels and may instead send the request to an official contact point of the controller. The

controller is not obliged to act on requests that are sent to completely random, or apparently incorrect, addresses.”

Comment: We propose the EDPB to consider also the requests sent in a massive way via electronic applications that work with automatic systems (e.g., app with artificial intelligence application) among the requests the controller is not obliged to act on. The development of specific automatic systems that allow to manage the data subject right on their behalf, make impossible for the controller to have a direct relation with the data subject and with its capacity for self-determination in the management of his personal data that in concrete have been transferred to third parties. We consider this new trend not coherent with the principle of the Regulation and this Guidelines.

Scope of the right of access

“ [...] The right of access refers to personal data concerning the person making the request. This should not be interpreted overly restrictively and may include data that could concern other persons too, for example communication history involving incoming and outgoing messages.”

Comment: From the second sentence above mentioned, it seems that it could be possible for the controller to disclose other persons’ personal data to the data subject requesting access to his/her personal data. If possible, we ask for a clarification on this point.

How to provide access

“[...] The request must be fulfilled as soon as possible and in any event within one month of receipt of the request. This can be extended by two further months where necessary, taking into account the complexity and number of the request. The data subject then has to be informed about the reason for the delay.”

Comment: We propose to the EDPB to consider the modification of the last sentence “*The data subject then has to be informed about the reason of the delay.*” As follows: “**The data subject then has to be informed about the need of more time to manage the request**”. Often for the data subject is important to be informed about the timing of the management of its requests and not about the reasons of the potential delay. Furthermore, the reasons could be covered by confidentiality, in particular if relating or referring to third parties’ activities.

Limits and restrictions

“According to Art. 15(4) the right to obtain a copy shall not adversely affect the rights and freedoms of others. The EDPB is of the opinion that these rights must be taken into consideration not only when granting access by providing a copy, but also, if access to data is provided by other means (on-site access for example). Art. 15(4) is not, however, applicable to the additional information on the processing as stated in Art. 15(1) lit. a.-h. The controller must be able to

demonstrate that the rights or freedoms of others would be adversely affected in the concrete situation. Applying Art. 15(4) should not result in refusing the data subject's request altogether; it would only result in leaving out or rendering illegible those parts that may have negative effects for the rights and freedoms of _____ others. Art. 12(5) allows controllers to reject requests that are manifestly unfounded or excessive, or to charge a reasonable fee for such requests. These concepts have to be interpreted narrowly."

Comment: We propose the EDPB to also consider the right of the controller and of third party to seek to prevent claims or defend its rights in possible future claims or to maintain confidentiality on the information managed. We would like to point out that the activity of merely "*rendering illegible those parts that may have negative effects for the rights and freedoms of others*" could conflict with the controller interest and obligation that must respect and protect its and third party's confidential information that could be recognized also if some parts of this information are illegible.

Lastly, we suggest considering the modification of the sentence: "*These concepts have to be interpreted narrowly*" as follows: "**These concepts have to be interpreted balancing the interest of the parties and the circumstances of the requests.**"

- *Para. 12 and 13*

Comment: We suggest the EDPB to consider the possibility of balancing the exercise of right of access with the interests and rights of the controller to preserve and not share with its potential counterparty the contents of internal and classified as confidential documentation, unless requested by a Court judgement/ order or a request of the authority. In particular, in our view, the exercise of the right of access risks to be a way to have access to confidential information and strategies of the controller.

- *Para. 60 and 61*

Comment: We would like to point out that the controller is not in the position to identify the data subject, but it does its best to identify the data subject asking for the exercise of his/her right of access. Moreover, we suggest the EDPB to clarify the responsibility of the controller in case of requests performed by a "false" data subject.

- *Para. 69*

Comment: We suggest the EDPB to clarify the meaning of "excessive data collection". In particular, we suggest adding examples of personal data that, if collected for the identification of the data subject, would lead to an excessive data collection.

- *Para. 70*

Comment: We propose to the EDPB to further develop how and to whom the controller must adequately justify the use of “burdensome measures” eventually imposed for a data subject’s identification.

- *Para 87-88-89*

Comment: Regarding the exercising of the right of access through portals / channels provided by a third party, we suggest the EDPB to include its analysis also the requests sent via electronic applications that work with automatic systems (e.g., app with artificial intelligence application). Referring to the fact that the controller needs to ensure that the portal/third party is acting legitimately on behalf of the data subject, we would like to stress the fact that hardly ever the portals/third parties provide the data subject's authorization and contact details, so it is not possible to directly contact the data subject. Hence, in such cases, also the possibility to disclose the data directly to the data subject is very limited. Therefore, we propose to the EDPB to specify what actions should the controller take when it does not have another way to contact the data subject. Lastly, we point out that the controller would not be able to assess the third party / portal security measures, since it does not have any relation with the third party / portal.

- *Para 189-190*

Comment: We suggest the EDPB to clarify on what grounds should the controller decide whether to charge a reasonable fee or refuse to comply with the request.

We would be grateful for your consideration of our comments and proposals and remain available for any clarification and further information.

Respectfully Submitted,

Stellantis N.V.