

22 November 2018

National Transport Commission
Level 3, 600 Bourke Street
Melbourne, 3000 Victoria

Email: htsirlina@ntc.gov.au

Dear Sir/Madam,

Regulating government access to C-ITS and automated vehicle data

We welcome the opportunity to respond to the National Transport Commission's discussion paper *Regulating Government Access to C-ITS and Automated Vehicle Data*. Telstra has been exploring Cooperative Intelligent Transport Systems (C-ITS) for several years now, both independently and in collaboration with other partners to trial Vehicle-to-Infrastructure (V2I) and Cellular Vehicle-to-Everything (C-V2X)¹ technology over our 4G network. More broadly, Telstra is a member of ITS Australia and the Australian & New Zealand Driverless Vehicle Initiative (ADVI) and is closely engaged with vehicle communication technology evolution through global bodies such as the Third Generation Partnership Project (3GPP) and 5G Automotive Association (5GAA) which are evolving special automotive capabilities for mobile networks.

The scope of the discussion paper only addresses government collection of and access to data generated by Connected and Autonomous Vehicles (C&AVs). It excludes private sector collection of and access to CA&V data and as a consequence, we do not offer answers to the specific questions posed by the NTC throughout the consultation.

However, the discussion paper² makes observations about government access to information collected or transmitted by third parties, including data that may be collected under the *Telecommunications (Interception and Access) Act 1979* (Cth) (TIA Act). Given our status as a licensed telecommunications carrier in Australia, and our experience with the TIA Act, we offer some observations on the limitations that exist in this area for the NTC's consideration.

Mandatory Data Retention does not store content

Section 5.4.1 of the discussion paper correctly observes that under the TIA Act, telecommunications service providers are required to keep data about telecommunications (referred to as 'metadata') for a minimum of two years, and that such data includes the source, destination and time and duration of a communication. The discussion paper then goes on to observe that law enforcement agencies can access the data without a warrant for certain scenarios.

¹ Examples of V2X include vehicles talking to infrastructure (such as traffic lights), vehicles talking to other vehicles, and vehicles talking to vulnerable road users such as cyclists and pedestrians.

² For example, section 5.4.1.

However, the final sentence of that paragraph observes that “*Access to the content of communications generally requires a warrant or other authorisation.*”, which as a continuation of the previous point concerning access to metadata not requiring a warrant, potentially implies that the content of communications is also stored with the metadata.

There is no requirement under the data retention regime in the TIA Act to keep the content of a communication. Section 187AA of the TIA Act sets out the information to be kept and section 187A(4)(a) specifically states that service providers are not required to keep “*information that is the contents or substance of a communication*”.

Adjacent networks may not fall under the telecommunications regulation

The NTC’s discussion paper³ refers to section 7.1 of a UNSW report that observes ‘*ADSEs or C-ITS manufacturers may themselves be relevant entities under telecommunications legislation in the future*’. Section 7 of the UNSW report delivers a brief summary of the applicability of various pieces of often complex telecommunications legislation to future C&AV ecosystems, including vehicles and their operating systems, independently owned communications infrastructure (private or government) and hybrid combinations where independently owned infrastructure uses public carriage networks. Elsewhere throughout the NTC’s discussion paper⁴, references are made to government-owned roadside infrastructure, and the ability for government to collect data through these networks, thereby adding another permutation to the ecosystem that will exist to support C&AVs.

As the UNSW report notes, relevant entities under telecommunications regulation are (licensed) carriers and carriage service providers, as defined in Part 1 Section 7 of the *Telecommunications Act 1997* (Cth). However, roles and obligations for the potential wide range of future actors in the C&AV ecosystem is likely to be complex, and importantly, not all future actors will fall under telecommunications regulation, including the TIA Act. We would be pleased to assist the NTC in any way we can in relation to these matters.

Please don’t hesitate to contact Geoffrey Gerrand on (03) 8649 7350 or by email at Geoffrey.Gerrand@team.telstra.com if you have any queries about our submission.

Yours sincerely



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³ Section 5.4.1, top of page 46.

⁴ For example, s3.4.2 (top of page 30), s4.4.2 (middle of page 35), s5.3.1 (top of page 42), s5.3.2 (middle of page 43), s7.5.2 (top of page 69).