



International Telecommunication Union

Legal and Liability Issues of Telematic Systems

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What are Telematics?

- o Telematics is the use of telecommunication in conjunction with informatics, e.g. the passing of information from one computer to another via a telephone line or other electronic link. The basic promises of telematics are obvious: by giving access to any form of knowledge anywhere, it speeds up the diffusion of information, saves time, increases collaboration between individuals and groups, and improves the quality of decisions

What are Telematics in Vehicles?

- o „anything that brings information into the car without being a radio“
- o technical principles:
 - terrestrial transmission paths
 - satellite transmission paths
 - cable, induction loops, beacons
 - in-vehicle devices

Some Critical Scenarios

o Scenario 1:

The driver uses a car park guidance system. It tells him that a parking space is available and he parks the car without verifying this information. He hits another car.

Question:

Who is liable if an accident occurs? Can the false information lead to liability of the car manufacturer?

Some Critical Scenarios

o Scenario 2

A decision support system calculates the fastest route for a taxi driver to get to the airport. The calculation was false and the customer misses his plane.

Question: Is the taxi driver liable? Can he ask for compensation from the car manufacturer?

What is “liability”?

- o Product liability:
liability for all damages caused by a defect of a product, e.g. to pedestrians or other cars
- o Warranty claims:
Claims of the owner of a car for defects of the product itself

Product Liability

- o Standard to be applied for “legitimate safety expectations” is the

“least informed and most endangered user”
- o Influenced by the presentation of the product in manuals, advertisement etc.
- o Manufacturer must inform about limits of the system, the existence of a system at all etc. For example, how does it perform under bad weather conditions etc.?

Product Liability

- o Manufacturer must take foreseeable misuse into consideration and must take measures to avoid it.
- o For remaining risks instructions and warnings must be given to the driver.
 1. Risks must be made plausible.
 2. Warnings in manuals are not always sufficient.

Product Liability

- o With regard to Scenario 1, the following questions arise:
 - Can the user expect that the information is always correct?
 - Is it not the obligation of the driver to verify the information?
- o As a general rule: when using telematics the driver stays in control of the car and must exercise such control.

Shared responsibility?

- o Who is liable?
 - provider of information?
 - software manufacturer?
 - device manufacturer?
 - car manufacturer?
 - infrastructure provider?
- o It can be anybody participating in the manufacturing of a telematic system.
- o “Exclusion” of liability in contracts only possible for warranty claims, not product liability.

Data Protection

- o Level depends on the sector in which data shall be used (public, private)
 - only anonymous data may be collected
 - or with the data owners consent
 - or not at all (e.g. for law enforcement/collision investigation)

Response Project

- o Response 1 started in 1998. One of the goals was to identify the legal issues involved in various European countries relating to market introduction of driver assistance systems.
- o At the end of the project it was agreed that a Code of Practise was required to demonstrate reasonable safety of driver assistance systems and agreement between all relevant stakeholders.

Response Project

- o Response 3 started in 2004 and aims at finally providing this Code of Practice.
- o Next to car manufacturers, suppliers, legal counsel and insurance companies are part of the consensus team.
- o Results are regularly presented to public authorities and include partners from the USA and Japan.

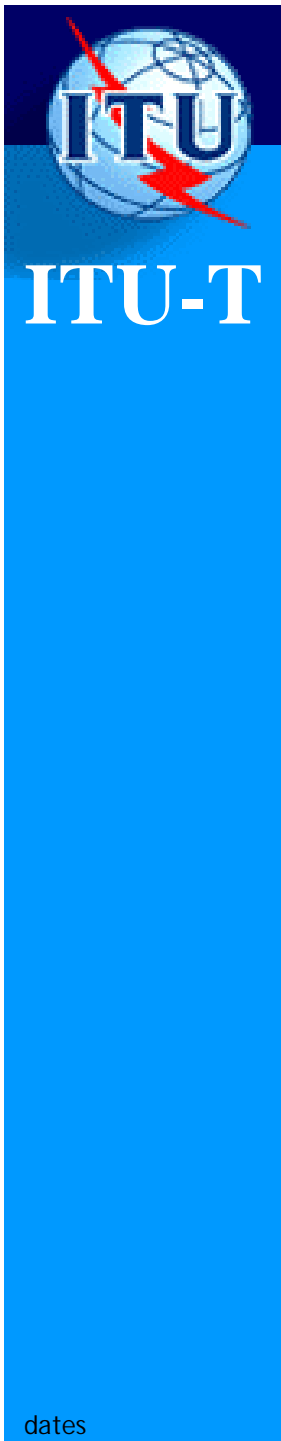
Response Projekt

- o The goal is to find a real consensus between all relevant stakeholders!
- o Is there a similar situation with regard to telematics?

The End

Thank you for your attention!

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