

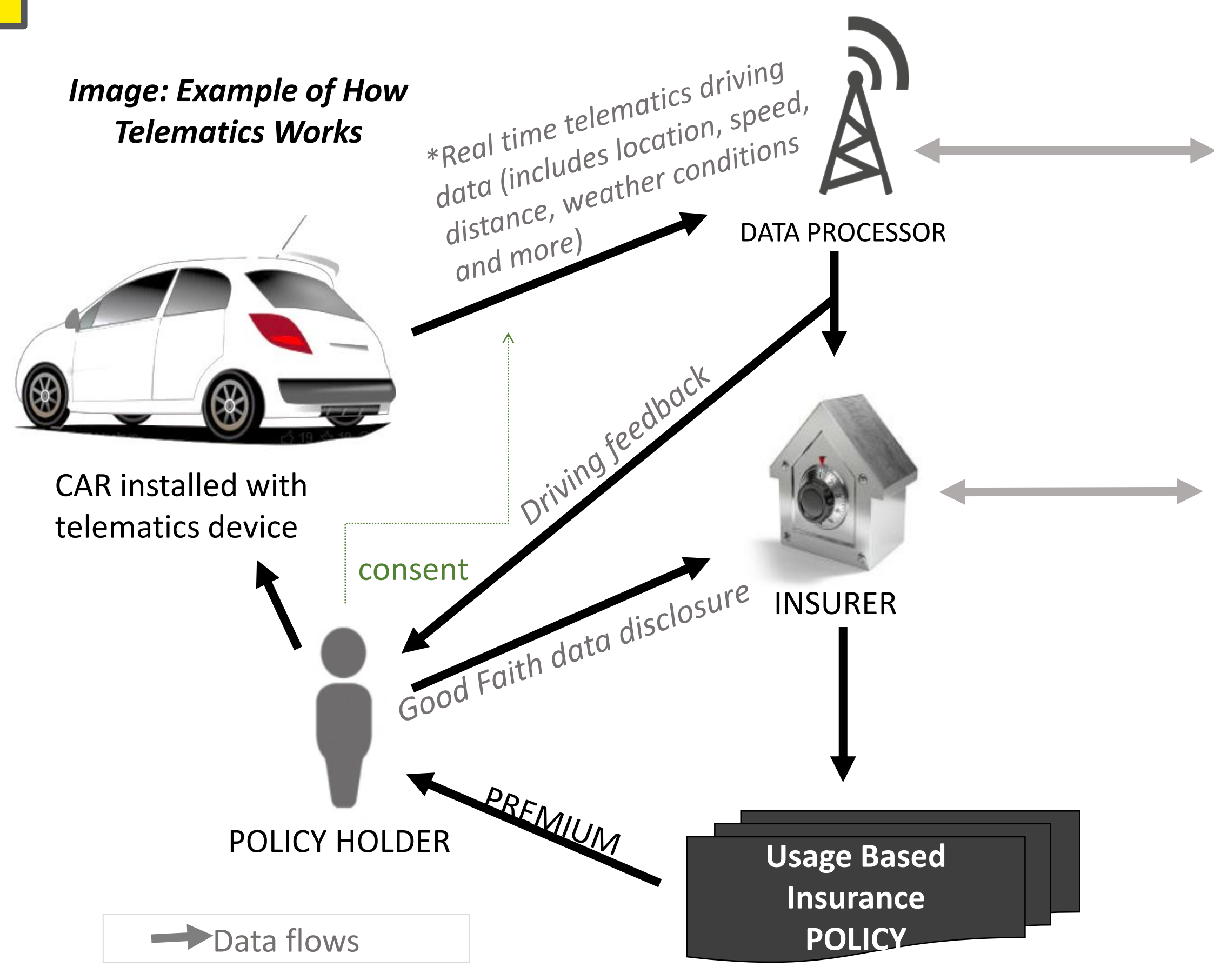
Driving under the influence of algorithms

Lawful access and use of telematics data

Background

- Ψ Vehicles are becoming increasingly connected through sensors and communication technologies generating large amounts of vehicle data on driving style, driving behaviour, and vehicle performance.
- Ψ Telematics insurance is an example of data based innovation where vehicle data is used in combination with improved data analytics for more accurate risk assessments to offer more personalised and fairer premiums. The data can also be used for driver feedback to improve driving and for fraud detection and optimizing products and profits.
- Ψ Telematics is predicted to represent more than 35 million policies in 2020 or around 15% market penetration in Europe.
- Ψ Telematics is expected to disrupt traditional insurance challenging established insurance principles and concepts including those of Utmost Good Faith and Risk Pooling.
- Ψ Despite the benefits, there are serious concerns about vehicle security, privacy and competition that are challenging regulators to enable innovation and data sharing while making sure adequate safeguards are in place.

Telematics in action



Telematic data access and control

- ▣ **Data ownership**
The research supports the proposition that telematics data is not property that can be owned.
- ▣ **Data control**
Despite lack of data ownership the research identifies several ways in which vehicle data can be controlled through copyright and database protection, contracts and licensing, trade secrets, (unfair) competition, human rights, privacy and data protection law and sector specific insurance law.
- ▣ **Personal data**
Vehicle data constitutes personal data and telematics falls under the scope of the General Data Protection Regulation. There is uncertainty about compliance particularly concerning the scope of lawful grounds for processing data. Most vehicle data processing is based on consent but with telematics data consent may no longer be the appropriate ground for insurance purposes.
The scope and role of rights such as to data portability and automated processing, aimed at empowering and enabling drivers to have more control over their privacy, should be clarified.
- ▣ **Data Sharing Platforms**
With more data being collected and data analytics technologies improving, new business models are emerging, including data sharing markets which could provide a solution to some of the challenges on how to make vehicle data available in a secure yet neutral, fair and equal way.

Research Scholarship

Research at CIPPPM supported by PhD scholarship awarded to Freyja van den Boom, Faculty of Media and Communication and currently Research Fellow at the Weizenbaum Institute, Berlin.

The research is a combination of legal doctrine and empirical research including interviews with stakeholders such as expert practitioners in the field of automotive technology and insurance.

Key Presentations

- ▣ Amsterdam Privacy Conference (APC): *Fair and equal access to vehicle data, challenges under the General Data Protection Regulation*
 - ▣ Annual Conference of EPIP (European Policy for Intellectual Property) Berlin *Trade secrets: driving forces or road blocks for access to vehicle data*
 - ▣ Insurance marketing conference, Bournemouth: *Personal data and Consumer Insurance: a freedom to share or duty to disclose?*
 - ▣ 8th International Conference on Information Law (ICIL) : *Vehicle data controls: Balancing interests under The Trade Secrets Directive and the GDPR.*
 - ▣ Weizenbaum-Institute, Berlin: Research Fellowship Talk *Driving algorithms: a critical analysis of the legal framework to regulate vehicle data.*
- Upcoming: CPDP, Brussels: Panel on 'Insurance, algorithmic decision-making, and discrimination'

