FEDERATION INTERNATIONALE DE L'AUTOMOBILE

FIA GUIDELINES FOR THE COLLECTION AND USAGE OF BIOMETRIC DATA IN MOTOR SPORT

December 2021

LIGNES DIRECTRICES FIA POUR LA COLLECTE ET L'UTILISATION DE DONNÉES BIOMÉTRIQUES DANS LE SPORT AUTOMOBILE

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LEGAL NOTICE

MENTIONS LEGALES

GENERAL

The use of biometrics to capture biometric data is increasing rapidly in the context of professional sport.

The use of biometrics is not without risks. Without the implementation of suitable security and privacy compliant processes, their use might compromise athletes' confidentiality and privacy rights.

This document aims to provide high-level guidance to any party who collects, handles, or uses biometric data relating to drivers and co-drivers (hereinafter "Competitors") within the framework of FIA Competitions falling within the scope of the International Sporting Code.

This guidance may be updated by the FIA at any time, as set out in Section 5.

This document is intended to provide guidance only and should not constitute a legal obligation. The FIA waives any responsibility for any errors or omissions contained in this document, or for any loss caused or sustained by any person relying on it. Before taking any specific action based on the advice in this guidance, you are advised to take independent legal advice.

1. DEFINITIONS

1.1. Protected Health Information

Protected Health Information ("**PHI**") means any data that is traditionally created or received by a health care provider and can be used to identify an individual or their medical condition. PHI constitutes "special category data" under GDPR (and pursuant to privacy laws in other jurisdictions) and is deemed to be more sensitive. As such, the processing of PHI is subject to more onerous conditions under privacy laws.

1.2. GDPR

The European Union General Data Protection Regulation (EU 2016/679) ("**GDPR**").

1.3. Biometrics

Biometrics are the techniques and technologies that perform measurements and statistical analysis of unique physical and physiological characteristics.

1.4. Biometric data

In sport, the term "Biometric data" encompasses a broad range of metrics such as heart rate, blood oxygen level, hydration levels, body temperature and body mass index.

Competitor related biometric data ("**CBD**") is often used to refer to the measurement and tracking of physiological characteristics for assessing human performance and recovery but may also assist rescue and medical teams in the event of a serious accident. Most CBD falls within the category of PHI, however some CBD (such as position data from GPS trackers or accelerometer data from fitness trackers) falls outside the definition of PHI, save to the extent that it can be linked to other data sets in such a way as to enable the underlying individual to be identified.

1.5. Biometric devices

Biometric devices include technologies such as heart rate or blood pressure monitors, and wearable devices such as GPS trackers or fitness trackers. "Wearables" means a device worn by an individual that measures physiological variables or biometric information. For competitions organized in compliance with the International Sporting Code, Biometric devices means a device approved in accordance with FIA Standard 8868-2018.

2. AREAS OF USE

2.1. Medical and rescue use

CBD can be used for the purpose of medical diagnosis and treatment in the event of an accident. CBD can be obtained from any biometric device immediately after an accident occurs.

In a medical or rescue emergency, except as stated under section 2.2, CBD shall not be used for any other purpose other than to facilitate medical care. In such situations, CBD shall be handled using the same confidentiality and privacy considerations as PHI in pre-hospital care.

2.2. Post-accident investigation

CBD and PHI can be used in a post-accident investigation. The main purpose is to improve safety and accident preventive measures.

In the event of a fatal or serious accident investigation, all CBD shall be made available:

- to external medical professionals who are treating the relevant Competitor;
- to the FIA or any entity/practitioner or public authority which needs to investigate the accident; and
- if the Competitor has consent to it - to the World Accident Database for research related to accident prevention and/or safety objectives.

2.3. Human performance monitoring

In all sports, professional teams have historically used biometric data to monitor athletes' fitness and performance. Biometric devices used by a team, or the athlete can collect several forms of CBD.

Biometric devices on the consumer market may have little or even poor-quality science behind them and are often not approved by medical or health authorities. The accuracy of data collected by these devices often relies on the manufacturer. Consequently, it may be questionable whether the algorithms provided with such devices to interpret biometric data are sophisticated enough to yield useful information regarding a competitor's performance or fitness.

It is the Competitor's right to choose not to disclose their PHI to third parties for activities related to human performance. Competitors' consent must be obtained before using PHI for such purposes.

2.4. Entertainment and marketing purposes

Once biometric data is collected, it can be processed into a user-friendly format and presented in a simplified form typically represented graphically or numerically.

The use of biometric data can go beyond purely medical or performance objectives by exposing the data to a large audience for entertainment or marketing purposes.

To prevent the unethical use of this data and to avoid the dissemination of raw biometric data in the public domain, CBD used for entertainment and marketing purposes shall not be publicly disclosed in the form of the original measurement, except if the competitor provides informed consent as described in article 4.3. If the competitor has not provided an informed consent to disseminate raw data, before the dissemination of any CBD, it shall first be processed into a new variable which protects the PHI of the Competitor. The algorithm used for the processing of the data and creation of such variables must remain confidential and shall ensure the absolute nature of the original data is either hidden or converted into a relative measurement (such as a percentage value).

In the case of an accident or medical emergency, except as stated under sections 2.1 and 2.2, the use of any CBD relating to the Competitor(s) involved in such an accident, including the dissemination of the same (e.g., broadcasting), is prohibited.

The party responsible for the dissemination of the CBD shall ensure that robust security procedures are in place to prevent prohibited use (such security measures being in line with industry best practices and applicable laws). Such procedures may require a time delay before disseminating the CBD.

It is the Competitor's right to choose not to disclose their PHI to third parties for activities related to entertainment and marketing, and the Competitor's choice shall be respected. Competitors' consent must be obtained before using PHI for such purposes.

3. TECHNICAL REQUIREMENTS

3.1. Choice of Biometric devices

All biometric devices used during an FIA competition must be homologated by the FIA according to FIA Standard 8868-2018. They must also be compliant with any enforceable national regulations or standards regarding health data usage and protection.

3.2. Storage conditions

Currently, most wearable device manufacturers and teams are using less rigorous data protection measures than hospitals or large cloud-based companies. In clinical settings, the safeguarding and encryption of electronic health information is subject to best practices and regulation.

Whether CBD is collected, stored or accessed via biometric devices, mobile applications, cloud computing capabilities or databases, its misuse may have serious consequences for the Competitor and his team. It is therefore crucial that data safety is considered as a key point of CBD handling and storage.

For best practice, CBD storage and transmission systems should ensure encryption of data at rest and in transit. This includes network and application anomaly detection technologies, logging and access control audits, third-party penetration tests, intrusion detection and prevention, encryption of data at rest and in transit, and regular vulnerability assessments and risk analysis.

4. LEGAL ASPECTS

4.1. Ownership of the data

When first collected and when no property transfer is provided under an agreement, CBD is the property of the Competitor.

Biometric data is collected in real time as raw data, but most of the data is then processed using algorithms into user-friendly formats. The proprietary user-friendly data may give rise to intellectual property rights issues which are not present in raw data or basic medical data.

4.2. Information and consent of the Competitor

Personally identifiable Biometric data may only be collected and used in compliance with applicable laws. GDPR is broadly recognized as establishing best practice in the context of processing personal data and, wherever possible, should be adhered to. In addition, any local law requirements which are required in addition to GDPR requirements, must also be complied with.

The party collecting such data is responsible for issuing Competitors with a privacy law compliant data protection notice, which amongst other things, must set out the purposes for collecting and using such data, the legal basis for using the data and the third parties with whom such data may be shared. Where it is not possible to rely upon an alternative legal basis for processing such data (e.g. necessary for protecting the vital interests of the Competitor or for medical diagnosis), consent must be validly obtained from the Competitor before processing such data.

4.3. Informed consent

The General Data Protection Regulation (EU) 2016/679 (GDPR) provides that the data subject has to give his/her consent to process his/her personal data for one or more specific purposes. This consent must be a *"freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her* ".

The "free" aspect of the consent is the effectiveness of the choice submitted to the data subject. It implies the presence of an alternative that he/she can select in case of refusal, which allows him / her to avoid any feeling to be compelled to accept.

The consent must be specific. This requirement means that, in case of multiple purposes for several data processing, the data controller must receive a separate consent for each purpose. This must clearly define how feedback is treated to submit a consent proposal for all the manipulations made with the private data (not only their collection). To this end, the consent should specify what is being collected (Heart rate and SpO2 for example) and the purpose of its collection – IE for broadcast graphics and post-production content and limited short clips / scan shots.

The consent has to be informed. The objective is that the data subject understands the processing of his or her own personal data. According to GDPR requirements, the information must be concise, transparent, intelligible, and easily understood, given in a clear and plain language, avoiding specialist terminology. This should cover that the data is collected from a wearable device, how it is processed into a user-friendly format, that it is stored securely for the duration of post-production and that it is then securely deleted. Ownership of the data should be clarified in the consent.

If the data subject's consent is given in the context of a written declaration which also concerns other matters, the request for consent shall be presented in a manner which is clearly distinguishable from the other matters, in an intelligible and easily accessible form, using clear and plain language. Any part of such a declaration which constitutes an infringement of this Regulation shall not be binding.

Consent may be cancelled at any time as GDPR specifies that it must be as easy to withdraw consent as to give it.

5. AMENDMENTS TO THE GUIDELINES

Any amendment to these Guidelines will first be submitted to the relevant FIA Commissions for approval, such as the Drivers' Commission and the Medical Commission, before being published as a revised version of the Guidelines.