



March 25, 2019

Senator Mae Flexer, Chair  
Representative Daniel Fox, Chair  
Joint Committee on Government Administration and Elections  
Connecticut General Assembly  
Legislative Office Building, Room 2200  
Hartford, CT 06106

**RE: SB 1108- Consumer Privacy**

Dear Chairs and Members of Committee:

On behalf of the Alliance of Automobile Manufacturers (Alliance), I am writing to you today to express some concern with Senate Bill 1108, as currently drafted. The Alliance is a trade association representing 12 of the world's leading car and light truck manufacturers, and is comprised of BMW Group, FCA US LLC, Ford Motor Company, General Motors Company, Jaguar Land Rover, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche, Toyota, Volkswagen Group of America, and Volvo Car USA. Together, Alliance members account for roughly 70% of new vehicles sold in the United States each year.

### **The Auto Industry's Commitment to Privacy**

Automakers are driving innovation and continually seeking to enhance vehicle safety, vehicle performance, and convenience to consumers. Connected and automated vehicle technologies hold great promise to provide a range of benefits to consumers and society, such as crash avoidance, emergency response, congestion mitigation, reduced fuel consumption, vehicle health reports, and infotainment services. The development and delivery of such technologies, however, relies on the collection and analysis of information gathered from vehicle systems.

Automakers have long recognized the potential privacy considerations raised by this data collection and have voluntarily taken proactive steps to protect consumer privacy. In 2014, the Alliance and its members, along with the Association of Global Automakers (a trade association representing U.S. operations of certain international vehicle manufacturers and original equipment suppliers) and their members issued the *Privacy Principles for Vehicle Technologies and Services* ("Principles").<sup>1</sup>

The *Principles* were groundbreaking. The Alliance's members have all committed to meet or exceed the commitments contained in the *Principles* when offering innovative vehicle technologies and services. Specifically, the *Principles* establish requirements for the collection, use, and sharing of information in association with vehicle technologies and services available on cars and light trucks sold or leased to individual consumers for personal use in the United States. "Covered Information," under the *Principles*, includes identifiable information that vehicles collect, generate, record, or store, that is retrieved from the vehicle by the automaker, as well as personal subscription information provided by individuals subscribing or registering for vehicle technologies and services.

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<sup>1</sup> Consumer Privacy Protection Principles (2014) [hereinafter "Principles"], available at [https://autoalliance.org/wp-content/uploads/2017/01/Consumer\\_Privacy\\_Principlesfor\\_VehicleTechnologies\\_Services.pdf](https://autoalliance.org/wp-content/uploads/2017/01/Consumer_Privacy_Principlesfor_VehicleTechnologies_Services.pdf).

The *Principles* are built around the internationally recognized *Fair Information Practice Principles*, and are designed to be flexible so that automakers can tailor them to their specific needs, reflecting differences in technologies and other distinguishing or company-specific factors. The *Principles* went into effect for Participating Members in 2016 with full implementation required no later than vehicle Model Year 2018. There are 20 Participating Members, representing 99.7 percent of car and light duty truck sales in the United States, and including all members of the Alliance.<sup>2</sup> All Participating Members are subject to enforcement by the Federal Trade Commission ("FTC") under its Section 5 authority for unfair and deceptive business practices if they fail to abide by the commitments made in the *Principles*.

By committing to the *Principles*, Participating Members have voluntarily taken on or exceeded many of the obligations addressed under SB 1108, and the recently adopted California consumer privacy law. For example, the *Principles* require Participating Members to describe in privacy notices the types of Covered Information that will be collected, the purposes for collecting Covered Information, and the types of entities that may receive Covered Information.<sup>3</sup> Participating Members have also committed to obtain affirmative consent for the sharing of geolocation, biometric, or driving behavior information with unaffiliated third parties for their own use.<sup>4</sup> This goes beyond the sales opt-out requirement established under SB 1108. Participating Members also have committed to obtain affirmative consent before using geolocation, biometric, or driving behavior information for first-party marketing, which SB 1108 does not even address.

- *Auto industry is already the leader in consumer privacy protections, voluntarily.*

### Vehicle-Level Data

Much of the information that automakers collect is tied to vehicles, rather than individuals. In particular, automakers often use the Vehicle Identification Number ("VIN") to identify the vehicle from which information is collected. When looking at records tied to a vehicle, automakers may have little insight into who was driving the vehicle at the time that the information was collected. For example, when providing navigation services, an automaker may know where a vehicle was at the time a driver or passenger requested services, but the automaker may have no information regarding who made the request. This helps promote privacy as automakers are able to provide services to specific vehicles without processing information that is directly tied to a specific person.

- *By collecting data at the vehicle-level, automakers are not able to accurately comply with requirements for information on an individual basis.*

### Life-Saving Services

Many automakers share personal information with third-party entities that provide emergency response or roadside assistance services. Such services may include mechanical, medical, or security services. Some of the entities providing such services may be for-profit entities that retain and use the information for their own purposes (e.g., independent repair services that may use personal information to maintain relationships with consumers after the provision of services). If consumers have opted out of the sale of their personal information, as drafted, the broad concept of sale could needlessly endanger vehicle occupants, potentially causing

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<sup>2</sup> For the full list of Participating Members, see [https://autoalliance.org/connected\\_cars/automotive-privacy/participating-members/](https://autoalliance.org/connected_cars/automotive-privacy/participating-members/)

<sup>3</sup> *Principles*, *supra* note 1, at 7.

<sup>4</sup> *Id.* at 8.

death or exacerbating injuries by preventing automakers from providing prompt emergency response or roadside assistance services following an accident.

- *Broad definition of sale could eliminate ability to notify emergency services after accident.*

### **Continuing to Develop Advanced Technologies**

Automakers use vehicle-level data they collect for analysis related to motor vehicle safety, performance, and security, including for future security improvements and to assess how historical vehicle use may affect safety and performance. This data, including information that vehicles may collect regarding the external environment (e.g., road conditions), is particularly crucial to the development, training, implementation, and assessment of automated vehicle technologies. These technologies include crash avoidance technologies, such as blind spot detection, adaptive cruise control, automatic emergency braking, and lane assist. In many cases, automakers may need to analyze the information over time, as longitudinal assessments enable automakers to assess how past use may affect future safety, security, and performance. The data collected for research and development of such technologies is frequently tied to VINs or other vehicle identifiers and could, in certain circumstances, be viewed as personal information in that it may be possible to link the information to the owner or a registered user of a vehicle or vehicle services.

Automakers recognize that deleting information that is directly tied to a consumer may be a reasonable means of protecting privacy. However, deletion is not practicable in all circumstances. If, automakers are required, in response to a deletion request, to delete all information that could reasonably be linked to a vehicle, that would result in depriving automakers and automotive researchers from using the information to develop, test, and deploy vehicles and technologies that promise to deliver substantial life-saving, environmental, and societal benefits.

- *Deletion of consumer data would impact ability to develop future vehicle technologies.*

### **Providing Specific Pieces of Personal Information Could Compromise Intellectual Property**

Automakers have invested substantial resources into developing connected and highly automated vehicle technologies. The specific information that vehicles collect and transmit, as well as the timing of collection and transmission, may, in many instances, reveal trade secrets or other proprietary information regarding vehicle design and configuration or service offerings. For example, highly automated technologies rely on the collection of technical vehicle and environmental information that automakers use to further develop and improve the technologies. The very catalog of information collected can allow inferences to be made about the types of sensors used, the specificity of sensor calibration, the collection rate, and other important protected business information.

- *Trade secrets and intellectual property could be revealed by disclosure of certain information*

### **Franchise Business Relationship Not Appropriately Recognized**

As drafted, SB 1108 allows consumers to opt out of the “sale” of personal information. The definition of “sale” captures the sharing of personal information with unaffiliated third parties for consideration, which could limit the transfer of data between automakers and their dealers and suppliers. Due to the common branding shared by automakers and their authorized dealers, consumers likely expect that they share information with each other to support vehicle purchases, service, warranty, recall, rebate, financing, marketing, service communications,

discounts, and other operations, but technically such relationship is still between two separate business operations.

Automakers, independent dealerships, and suppliers share information for purposes that benefit consumers and the public. Sharing vehicle information enables dealerships to access full repair histories for vehicles, makes it easier for consumers to obtain services from multiple dealerships, enables suppliers to use vehicle-level data to improve safety, security, and performance for vehicle parts and systems, and allows suppliers and dealers to share vehicle-related or part-related information with automakers for safety, security, warranty, or other purposes. As such, a request to opt-out of the sale of personal information may disrupt the sharing of information between automakers, suppliers, and authorized dealers, and may complicate automakers' efforts for compliance with other laws such as state automobile franchise laws.

- Sharing of data between franchisor, franchisee, and suppliers should be protected.

### **Automobiles Present Unique Challenges**

Advanced vehicle technologies have the potential to save lives, reduce environmental impacts, and deliver substantial consumer benefits. They do so by collecting and processing location information, vehicle usage and system status information, and emergency response or crash signals. The vehicles from which the data is collected may be owned by families or participate in ride or vehicle-sharing programs, creating challenges in determining who should properly be linked to a vehicle. Automakers collect and share vehicle data to deliver needed services, sell vehicles, conduct research on motor vehicle safety, improve vehicle safety and efficiency, and to understand and continue developing the technologies that will lead to fully automated and other beneficial mobility outcomes. The recipients of the data include not only automakers, but emergency response and roadside assistance providers, suppliers of vehicle parts and systems, and authorized dealers.

- Automobiles and the business interests and relationships around the consumer product are much more complicated than most consumer goods.

Thank you for your consideration of the Alliance's concerns with the bill as currently drafted. Please do not hesitate to contact me, should I be able to provide any additional information.

Sincerely,



Wayne Weikel  
Senior Director, State Affairs

Joint Committee on Government Administration and Elections