

February 24, 2021

**RE: SB 893 - AAC Consumer Privacy**

Dear Chairmen D'Agostino and Maroney, Ranking Members Rutigliano and Witkos, and distinguished members of the General Law committee:

On behalf of the Alliance for Automotive Innovation, I am writing to you today to highlight a few concerns we have identified in Senate Bill 893 An Act Concerning Consumer Privacy, as currently drafted. Formed in 2020, the Alliance for Automotive Innovation is the singular, authoritative, and respected voice of the automotive industry. Focused on creating a safe and transformative path for sustainable industry growth, the Alliance for Automotive Innovation represents automakers producing nearly 99 percent of cars and light trucks sold in the U.S., Tier 1 original equipment suppliers, as well as other automotive technology companies.

**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 for Automotive Innovation's predecessor organizations and their collective members issued the *Privacy Principles for Vehicle Technologies and Services* ("Principles").<sup>1</sup>

The *Principles* were groundbreaking. The Auto Innovators' automaker 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.

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. All Participating Members are subject to enforcement by the Federal Trade Commission ("FTC") under its

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<sup>1</sup> *Consumer Privacy Protection Principles (2014)* available at:

[http://autoalliance.wpengine.com/wp-content/uploads/2017/01/Consumer\\_Privacy\\_Principlesfor\\_VehicleTechnologies\\_Services-03-21-19.pdf](http://autoalliance.wpengine.com/wp-content/uploads/2017/01/Consumer_Privacy_Principlesfor_VehicleTechnologies_Services-03-21-19.pdf)

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 893, 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>2</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>3</sup>

With the above as a framework on the auto industry's commitment to consumer privacy, we respectfully offer the following comments for member consideration.

*Line 71, inserting after the word "linkable" the following text: "by the controller"*

The purpose of this edit is to align the definition of "personal data" with the obligations and responsibilities of controllers. The focus should be on whether the controller who is controlling or processing the data can link the data to a person and not whether anyone can link the data to a person if presented an opportunity to do so.

*Line 209, inserting at the end thereof the following text: "personal data collected prior to January 1, 2023"*

The added clause would exempt from the bill data collected prior to the effective date of this section. New requirements and obligations often require companies to develop and implement new data management processes and tools. As it is challenging to alter existing data management processes and tools for previously collected data to satisfy new or evolving requirements and obligations, prospective – rather than retroactive – applicability of any new obligations or responsibilities is appropriate.

*Line 223, inserting after the word "data" the following text: "collected by the controller in the 12-month period preceding the request"*

This amendment to include a 12-month lookback for data access aligns with privacy laws enacted elsewhere, including California.

Thank you for your consideration of our above requests. Please do not hesitate to contact me, should I be able to provide any additional information.

Sincerely,



Wayne Weikel  
Senior Director, State Affairs

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<sup>2</sup> Principles, *supra* note 1, at 7.

<sup>3</sup> *Id.* at 8.

cc: Joint Committee on General Law

