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Before the
**NATIONAL TELECOMMUNICATIONS AND INFORMATION
ADMINISTRATION**
Washington, DC 20230

In the Matter of)
) Docket No. 180821780-8780-01
Developing the Administration’s Approach to)
Consumer Privacy)

COMMENTS OF GARMIN INTERNATIONAL, INC.

Garmin International, Inc. (“Garmin”) appreciates the opportunity to respond to the National Telecommunications and Information Administration’s (“NTIA’s”) Request for Comments on the Administration’s proposed approach to consumer privacy.¹

I. INTRODUCTION

Garmin, along with its affiliates, provides GPS navigation and wearable technology to the automotive, aviation, marine, sports and fitness, and outdoor recreation markets. With products ranging from fitness trackers to autopilot solutions for general aviation aircraft, Garmin serves a wide range of customers around the world, providing them with products, mobile applications, and services that help them safely pursue their passions and enrich their lives. Garmin is dedicated to building products that meet the highest standards of engineering and provide an excellent user experience. Since its founding almost 30 years ago, Garmin has grown into a global company that earned more than \$3 billion in revenue in 2017 and recently shipped its 200 millionth device.² At its facilities around the world, Garmin carries out various stages of product

¹ Notice and Request for Comments, Developing the Administration’s Approach to Consumer Privacy, 83 Fed. Reg. 48,600 (Sept. 26, 2018) (“RFC”).

² See Press Release, Garmin, *Garmin growth continues to accelerate as the company celebrates 200 million products sold and opens its Olathe campus expansion* (Oct. 24, 2018),

development, from initial concept to mass production of products that become an essential part of consumers' lives.

As the RFC observes, “the time is ripe” for the Administration “to provide the leadership necessary to ensure that the United States remains at the forefront of enabling innovation with strong privacy protections.”³ As discussed in detail below, Garmin strongly supports NTIA’s recommendation of a “user-centric,” outcome-driven approach to consumer privacy. Garmin agrees that the focus of any federal privacy framework should be on the consumer and that the Administration’s proposed approach strikes the right balance between enabling strong, enforceable consumer protections and providing the flexibility for companies to innovate. Garmin supports federal legislation that strikes this balance and establishes a uniform national standard by preempting state privacy and data security laws. A harmonized federal framework would provide much needed certainty benefitting businesses and consumers alike.

II. CONSUMERS BELONG AT THE CENTER OF ANY PRIVACY FRAMEWORK

Data are at the center of consumers’ experiences with Garmin’s products. Much of the data that customers create and upload through Garmin’s apps and services are personal, and, in Garmin’s view, the data belong to the customer. Garmin collects data from its customers for one overarching purpose: to ensure that the customers optimize their experience using Garmin’s products. Garmin is not in the business of monetizing its customers’ personal data.

Data-driven enhancements to Garmin’s devices, mobile applications and services provide significant benefits to individual users. For example, Garmin’s customers can monitor their

<https://newsroom.garmin.com/press-release/featured-releases/garmin-growth-continues-accelerate-company-celebrates-200-million-pr>.

³ RFC at 48,600.

heart rates in real time as well as view graphs of historical values and averages – all of which could reveal indicators of potential medical issues, such as sleep apnea or atrial fibrillation. In addition, Garmin devices can detect a bicycle crash and automatically alert a user’s emergency contact with his or her GPS location. Similarly, Garmin devices can help consumers navigate hostile terrain while sending text messages to their loved ones to let them know the user is safe or to call for help if he or she is not. These are critical services to many of Garmin’s customers, whether they are taking their first step toward a healthier lifestyle or are training for their next Iron Man triathlon. At the same time, Garmin understands that the data required to provide these services could be harmful to consumers if it were disclosed inappropriately or misused. Adequately securing consumers’ data and handling it responsibly and transparently is a duty that Garmin takes very seriously.

Garmin agrees that “protecting privacy and innovation requires balancing flexibility with the need for legal clarity and strong consumer protections”⁴ and that focusing on potential consumer harm and maximizing privacy outcomes provides a better alternative to prescribed means of protecting personal data. Too often a prescriptive approach results in checklist compliance and stymied innovation, without achieving measurable privacy protections or consumer benefits. By contrast, the Administration’s adoption of a “user-centric” perspective to help shape its privacy approach is appropriate and lends itself to identifying outcomes that advance consumers’ interests and promote innovation.

⁴ *Id.* at 48,601.

III. HARMONIZING THE REGULATORY LANDSCAPE AND CREATING LEGAL CERTAINTY THROUGH APPROPRIATE FEDERAL PRIVACY LEGISLATION WOULD BENEFIT U.S. COMPANIES

Garmin would also support federal legislation that codifies the Administration's customer-centric, risk-based approach and preempts state data privacy and security laws. Such legislation would have two significant advantages. First, it would give Garmin – and many other companies that use data to provide innovative services that consumers elect to use – a single national standard to follow. Having one nationally recognized standard would not only lower implementation and compliance costs, but it would also alleviate innovation-chilling uncertainty. Second, consumers would benefit by receiving consistent protections. Such consistency would be especially valued by Garmin's customers who rely on Garmin products to fuel their active, always-on-the-go lifestyles.

Garmin's experience with the European Union's ("EU") General Data Protection Regulation ("GDPR") is instructive about the benefits of harmonization. Although the GDPR is not perfect, it largely harmonized data protection regulations across the EU and brings much needed certainty to all involved, including regulators, businesses, and consumers. Prior to the GDPR, companies with operations across Europe had to navigate the complex – and in some cases, contradictory – data protection regulations of all EU member states. This fragmentation caused confusion, inconsistencies among the various legal regimes, and higher compliance costs. Now with a global privacy compliance program in place, Garmin is able to focus its resources on delivering new and exciting products to fuel consumers' passions.

Without a federal privacy law, the United States faces the risk of landing in a situation similar to the EU before the GDPR became effective, with numerous and possibly inconsistent privacy laws adopted at the state level. Indeed, California already enacted a baseline privacy

law, and other states are likely to follow suit in the absence of a federal privacy statute that pre-empts state privacy laws.

In the meantime, voluntary approaches based on the Administration’s proposed outcomes will also likely prove to be beneficial. In this regard, Garmin encourages the Administration to explore further with businesses, the Federal Trade Commission (“FTC”), and other stakeholders how the Administration’s approach could advance the goal of providing legal clarity while promoting innovation. For example, voluntary commitments to adhere to certain privacy principles could play a role here. In addition, the coordinated efforts of NTIA, the National Institute of Standards and Technology (“NIST”), and other agencies to examine the legal, engineering, and other dimensions of privacy standards should inform future discussions of legislation – in the United States and abroad.

IV. THE ADMINISTRATION’S PROPOSED PRIVACY OUTCOMES WOULD PROVIDE STRONG CONSUMER PROTECTIONS AND FLEXIBILITY FOR COMPANIES

Regardless of whether the Administration pursues voluntary initiatives, supports federal privacy legislation, or both, it is critically important that its ultimate approach provide flexibility for companies as well as strong protections for consumers. The seven privacy “outcomes” that the RFC identifies would provide the foundation for comprehensive consumer protections and, if pursued under a risk-based approach, sufficient flexibility for companies to determine how to implement them.

Moreover, the Administration’s proposed outcomes align well with the privacy practices that Garmin has put in place. Over the past decade, Garmin’s consumer device offerings have developed rapidly from non-connected products to a broad array of devices that are complemented by mobile apps and internet-based services. This connectivity allows Garmin’s

customers to significantly enhance their experiences with their Garmin devices, pursue their passions and enrich their lives. During the same time period, millions of users from nearly every country in the world have entrusted their personal data to Garmin – for which Garmin must meet its obligations under myriad domestic and international privacy laws and regulations.

Fortunately, these requirements overlap to a significant extent with the Administration’s proposed privacy outcomes. In particular, transparency, control, and security are part of the bedrock that is necessary to maintain consumers’ trust and comply with a broad array of privacy laws and regulations. Garmin, therefore, supports including these outcomes in any consumer privacy approach.

Still, as the RFC recognizes, the Administration’s approach must provide companies with the flexibility to determine how to achieve these outcomes.⁵ Garmin’s approach to providing customers with control over their personal data illustrates the importance of this principle. A large majority of Garmin products can be used fully out-of-the-box without ever connecting to the internet. All sharing options are set to private by default for those customers who do choose to use the wide array of Garmin’s apps and services, and many individual features can be turned on or off as customers desire to access them. In addition, users who decide to no longer use Garmin products, mobile apps, or services can delete their personal data at any time. Garmin also does not share personal data with other companies unless a customer makes such a request. Providing this degree of overarching user control is consistent with Garmin’s culture and business model, but other companies may face different user, business, and operational demands. Providing flexibility in how companies can achieve each outcome is therefore essential.

⁵ *Id.* (“Being overly prescriptive can result in compliance checklists that stymie innovative privacy solutions.”)

V. THE ADMINISTRATION'S APPROACH PROVIDES A STRONG FOUNDATION FOR U.S. LEADERSHIP ON CONSUMER PRIVACY

Strong and credible leadership by the United States on privacy issues is as important now as ever. As a global company, Garmin depends on the ability to transfer data across borders to provide appealing, highly available apps and services built and maintained using industry standard technology and data protection best practices. In doing so, it must comply with many different legal frameworks related to privacy, including the GDPR. In the process of preparing for implementation of the GDPR, Garmin learned first-hand how critical it is to include engineering, user experience, and other perspectives in the development of privacy regulations – as well as in their implementation. Garmin finds it encouraging that NTIA is working with NIST and other agencies to develop a consumer privacy approach that combines policy, engineering, and operational considerations. NIST has long focused on privacy engineering and risk management and, as the RFC notes, is working with industry stakeholders to develop a voluntary tool to assist organizations in managing privacy risk.⁶ In addition, the FTC will examine its own approach to consumer privacy as well as the broader legal and regulatory framework in the United States as part of its ongoing hearings on competition and consumer protection.⁷ Garmin encourages the Administration to make this holistic approach the foundation for engaging with other countries that are considering privacy and data protection laws.

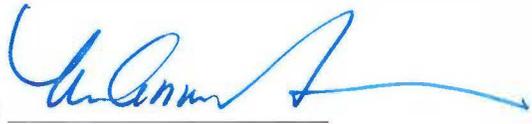
⁶ *Id.* See also NIST, Privacy Framework, <https://www.nist.gov/privacy-framework> (last visited Nov. 4, 2018).

⁷ See Press Release, Fed. Trade Comm'n, *FTC Announces Sessions on Consumer Privacy and Data Security As Part of its Hearings on Competition and Consumer Protection in the 21st Century* (Oct. 26, 2018), <https://www.ftc.gov/news-events/press-releases/2018/10/ftc-announces-sessions-consumer-privacy-data-security-part-its>.

VI. CONCLUSION

Garmin appreciates the Administration's commitment to advancing consumer privacy in the United States and stands ready to assist in efforts to support policy development and engagement in that regard.

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