

Comments of the Alliance of Automobile Manufacturers on the Administration's Approach to Consumer Privacy

Introduction

The Alliance of Automobile Manufacturers (Alliance) appreciates this opportunity to provide comments in response to the National Telecommunications and Information Administration (NTIA) request for comments on “Developing the Administration’s Approach to Consumer Privacy,” pursuant to 83 FR 48600, Docket Number 180821780-8780-01. The Alliance is the leading advocacy group for the auto industry, representing 12 member companies that account for approximately 70 percent of all car and light-duty truck sales in the United States.¹

An Era of Innovation in the Auto Industry

The automotive industry continues to spur and respond to a technological evolution that has the potential to revolutionize the transportation ecosystem. Innovative technologies and services – especially in the areas of connectivity and automation – hold great promise to deliver substantial benefits to consumers, society and the environment. These potential benefits include, but are not limited to: enhanced safety – through crash avoidance and congestion mitigation; reductions in fuel consumption and associated emissions; improved mobility, especially for the elderly, disabled and others who face present limitations; improved vehicle performance and service through advanced diagnostics; transportation efficiency; and convenience through connected apps, platforms and services.

These technologies and services are present on the road today and with each model year they increase in availability, sophistication, and capabilities. For example, rapid innovation in sensor technology has increased the prevalence of crash avoidance technologies – such as blind spot detection, adaptive cruise control, automatic emergency braking and lane keep assist – designed to assist drivers in certain situations. Beyond safety-specific technology, consumers now enjoy greater convenience and service through connected infotainment and telematics platforms. The current generation of technologies and services provide insights into the innovations and safety advances that are being made across the automotive industry.

Automakers have long recognized that the potential life-saving, environmental, and societal benefits of these innovative technologies will not be realized if the public does not trust the safety, security and privacy of automated and connected cars. As physical machines evolve into connected platforms, technology is reshaping the relationship between vehicles and their users. Thus, the future of these technologies depends on automakers working to take proactive steps to confront important issues – such as cybersecurity and privacy – to ensure the promise of innovation is not reduced or lost altogether.

¹ The members of the Alliance include (alphabetically) – BMW Group, FCA US LLC, Ford Motor Company, General Motors Company, Jaguar Land Rover NA, LLC, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche, Toyota, Volkswagen Group of America and Volvo Cars North America.

While the Alliance acknowledges interdependencies between the areas of security and privacy, these comments are limited to the automotive industry's efforts specific to privacy which the Alliance and our members proactively launched in 2014.

Automakers Commitment to Privacy

Many of the connected and automated vehicle technologies and services available today as well as many under development are based upon information obtained from a variety of vehicle systems. In certain instances, this may involve the collection of information about a vehicle's location or a driver's use of a vehicle. As reliance on data by these connected and automated vehicle technologies increase, consumer concerns and expectations regarding privacy will continue to be important in realizing the benefits of these technologies. That is why four years ago, automakers, including Alliance members, took a proactive step to acknowledge this concern and demonstrate their long held commitment to protect consumer privacy.

In November 2014, the Alliance and Global Automakers issued the Privacy Principles for Vehicle Technologies and Services ("Principles").² The Principles provide an approach to customer privacy that Participating Members commit to when offering innovative vehicle technologies and services. Specifically, they apply to 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. This information, referred to in the Principles as "Covered Information," includes identifiable information that vehicles collect, generate, record or store, which 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. Certain sensitive categories of covered information – including geolocation information, biometrics, and driver behavior information – receive special attention under the Principles. In addition to enhanced transparency requirements, companies are prohibited from using this sensitive information for marketing purposes or sharing it with or selling it to unaffiliated third parties in the absence of affirmative consent.

Built around the Fair Information Practice Principles (FIPP), the Principles are meant to be flexible so that each company can tailor them to their specific needs, reflecting differences in technologies and other distinguishing or company specific factors. Participating Members may choose to incorporate into their privacy programs elements that are not addressed in the Principles and are free to take additional privacy steps; these Principles act as a floor, not a ceiling. Regardless of how Participating Members design their privacy programs and implement the Principles, Participating Members affirm the following fundamentals:

- **Transparency:** Participating Members commit to providing owners and registered users with ready access to clear, meaningful notices about the Participating Member's collection, use, and sharing of Covered Information.

² https://autoalliance.org/wp-content/uploads/2017/01/Consumer_Privacy_Principlesfor_VehicleTechnologies_Services.pdf

- **Choice:** Participating Members commit to offering owners and registered users with certain choices regarding the collection, use, and sharing of Covered Information.
- **Respect for Context:** Participating Members commit to using and sharing Covered Information in ways that are consistent with the context in which the Covered Information was collected, taking account of the likely impact on owners and registered users.
- **Data Minimization, De-Identification & Retention:** Participating Members commit to collecting Covered Information only as needed for legitimate business purposes. Participating Members commit to retaining Covered Information no longer than they determine necessary for legitimate business purposes.
- **Data Security:** Participating Members commit to implementing reasonable measures to protect Covered Information against loss and unauthorized access or use.
- **Integrity & Access:** Participating Members commit to implementing reasonable measures to maintain the accuracy of Covered Information and commit to giving owners and registered users reasonable means to review and correct Personal Subscription Information.
- **Accountability:** Participating Members commit to taking reasonable steps to ensure that they and other entities that receive Covered Information adhere to the Principles.

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 – including all members of the Alliance – representing 99.7 percent of car and light duty truck sales in the United States.³ 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 live up to the commitments made in the Principles.

The Administration’s Approach to Privacy

The Alliance supports the Administration’s commitment to developing a national approach to consumer privacy. In our increasingly connected world, consumers are rightfully concerned about how their data is being collected, stored, used and shared. As connected devices, services and platforms continue to multiply, so too will these concerns. If consumers do not have confidence in these innovative products and services, their economic and societal benefits could be lost.

At the same time, the Alliance recognizes that achieving meaningful consumer protection in this environment, without stifling the benefits of innovation, is not an easy proposition. A

³ Full list of Participating Members is available at <https://autoalliance.org/connected-cars/automotive-privacy/participating-members/>

proliferation of fragmented and conflicting approaches to privacy, domestically and internationally, would be detrimental to both consumer privacy and innovation – including in the automotive context. In addition, traditional approaches to regulation are not well suited to the dynamic, rapidly evolving nature of technological innovation, resulting in impediments for business while also impeding the creation and adoption of innovative privacy solutions.

The Administration's vision of an outcome driven, risk-based approach to privacy is the more effective path towards enhanced/greater consumer awareness and protection. Alliance members incorporated this approach into our 2014 Principles and believe it remains an effective model for consumer awareness and privacy. The Administration's approach offers organizations the flexibility necessary to achieve consumer privacy outcomes within the unique context of their business, industry and risk profile. In turn, it incentivizes organizations to view privacy as something that can be built into a company's culture as well as its products.

Enabling organizations to achieve privacy outcomes in a manner reasonable and appropriate relative to context is a critical component of this model, especially in the context of a national approach to privacy. Not all data uses are created equal and different sectors or individual businesses will have different needs, risks, and requirements that influence their needs and use of data. For example, automakers and stakeholders are developing autonomous vehicle technologies that may generate – and rely on – tremendous amounts of data. Certain categories of data may be necessary for automakers to ensure the safety, security, and performance of those vehicles. Thus, the context may dictate an approach to certain outcomes – such as control or access – that differs from other sectors or businesses with different risk profiles.

While this approach affords organizations needed flexibility in achieving privacy outcomes, in order for it to be successful, consumers must have confidence that it provides the protection they expect. That is why accountability is critical to ensuring organizations live up to their commitments. Consistent with the model adopted under the Principles four years ago, the Alliance believes the FTC is and should remain the entity responsible for enforcing organizational accountability for consumer privacy.

Conclusion

In an era of rapid innovation, both within the auto industry and across society, we need to develop policies that achieve desired outcomes for consumers without stifling the pace of technological advancement. The Alliance recognizes this is a difficult balance but, as demonstrated by our adoption of the Principles four years ago, we believe it is the right approach to consumer privacy.

The Alliance believes the Privacy Principles for Vehicle Technologies and Services place the industry in a solid position. But, even today, four years after the Principles' adoption, we continuously evaluate their strength and opportunities for improvement as technology and consumer expectations evolve.

We look forward to working with the Administration and stakeholders on a sustainable national approach to privacy that provides consumers with confidence and encourages the

realization of potential safety, environmental and societal benefits of innovative technologies and service. Any national approach or its resultant policy decisions should be crafted to avoid unintended consequences across different sectors, especially where existing practices are already in place and subject to enforcement.