July 26, 2024

The Honorable Lina S. Khan  
Chair  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Dear Chair Khan:

We write to urge the Federal Trade Commission (FTC) to investigate automakers’ disclosure of millions of Americans’ driving data to data brokers, and to share new details about the practice uncovered in a recent oversight investigation. If the FTC determines that these companies violated the law, we urge you to hold the companies and their senior executives responsible.

Recent investigative stories published by the New York Times have raised public awareness into automakers’ sharing of data from their customers’ internet-connected cars with data brokers for subsequent resale to insurance companies. Although General Motors (GM) has been the focus of much of the news coverage, it is not the only auto manufacturer to have shared driver data. Senator Wyden’s office conducted follow-up oversight into three auto manufacturers — GM, Honda, and Hyundai — that shared data with the data broker Verisk Analytics. Each of these three automakers confirmed their disclosure of drivers’ data to Verisk, such as acceleration and braking data. GM also confirmed that it disclosed customer location data to two other companies, which it refused to name.

Verisk essentially acts as a credit agency for drivers. One of the company’s products, which it shut down in April 2024 following New York Times’ reporting, scored drivers on their safe driving habits using data from internet-connected cars. Automakers shared drivers’ data with Verisk, which mined it to prepare Driving Behavior Data History Reports. Verisk sold these reports to auto insurance companies and also provided automakers with some of this information, including a driving score and safe driving suggestions, to provide to their customers. GM and Honda confirmed that they required consumers to enroll in a specific voluntary program, in which Verisk’s role was obscured, before sharing their data. Hyundai enrolled all consumers who activated their new car’s internet connection into the company’s driving score program, which included sharing their data with Verisk.
General Motors

GM failed to obtain informed consent from consumers before sharing their data, and used manipulative design techniques, known as dark patterns, to coerce consumers into enrolling in its Smart Driver program, according to information the company provided Senator Wyden’s office. The attached screenshots provided by GM show that the company combined the opt-in for its Smart Driver program with consent to receive important emails notifying the driver when their car’s theft alarm goes off, and to receive safety reports identifying vehicle problems and necessary repairs. The lengthy disclosures presented by GM before the opt-in did not disclose to consumers that as part of enrolling in Smart Driver, their driving data would be shared with data brokers and resold to insurance companies.

GM declined to confirm how many cars’ data it shared with data brokers — the New York Times reported 8 million vehicles — or the price it was paid. GM has publicly confirmed that between 2015 and 2024, it shared data from cars enrolled by drivers in the company’s Smart Driver program with Verisk and, between 2018 and 2024, with LexisNexis Risk Solutions.

In addition to sharing data on drivers enrolled in its Smart Driver program to Verisk, GM also confirmed to Senator Wyden’s staff that it shared location data on all drivers who activated the internet connection for their GM car, even if they did not enroll in Smart Driver. These disclosures of location data — to other, unnamed third parties — have been going on for years.

In a May 13, 2021 oversight call with Senator Wyden’s staff which has not previously been made public, GM officials confirmed that the company was providing bulk, de-identified location data from GM cars to an unnamed commercial partner, which GM officials would not identify and referred to as “Company A.” During that oversight call, GM confirmed it did not seek informed consent from consumers for sharing this data. Company officials told Senator Wyden’s staff that the only way consumers could opt out of the data sharing was by disabling the car’s internet connection entirely.

In a follow-up phone call three years later, on May 16, 2024, GM confirmed that it stopped sharing location data with Company A in May 2023. GM continues to refuse to identify this partner; however, Sky News reported in 2019 that GM provided an “in kind” investment of driver data to a British data broker named Wejo, alongside a cash investment in the company. Wejo shut down operations in May 2023, the same month and year that GM told Senator Wyden’s office that it stopped providing location data to its unnamed partner.
During that May 16, 2024, follow-up call, GM officials also revealed that the automaker is now sharing customer location data with a different company, which they also refused to identify.

**Honda**

Between 2020 and 2024, Honda shared data from 97,000 cars with Verisk, which paid Honda $25,920, or 26 cents per car, and it did so without obtaining informed consent from consumers, according to information Honda provided Senator Wyden’s office. Consumers were not enrolled in this data sharing program automatically but had to enroll in an optional Driver Feedback program through the company’s mobile app, according to Honda. The attached screenshots, which Honda provided, show the use of dark patterns that obscured Honda’s disclosure of customer data to Verisk. On the enrollment screen, Honda asked consumers for consent for the company to track them so that it could determine the consumer’s driving score and their eligibility for insurance discounts. Users who provided consent were then prompted to accept the company’s lengthy legal terms, in which Honda stated that Verisk would receive the consumer’s data. However, Honda buried the disclosures about its business relationship with Verisk, which did not appear on the first page, and were not likely to be seen by many consumers.

**Hyundai**

Between 2018 and 2024, Hyundai shared data from 1.7 million vehicles with Verisk, which paid Hyundai $1,043,315.69, or 61 cents per car. Hyundai did not seek informed consent from consumers before sharing their data. Hyundai provided this information and other answers to questions posed by Senator Wyden’s office, as well as screenshots of the enrollment process, which are attached. Hyundai confirmed that, by default, the company shared data with Verisk from consumers who enabled internet connectivity, by automatically enrolling those drivers in its Driving Score program without telling them. Hyundai required drivers to click through a consent form to enable the internet connection for a new car, but the company did not disclose that it would also share consumers’ data with Verisk if they agreed. Once enrolled, drivers could disenroll from the program through the company’s website or app.

**Deceptive Claims Implied Driving Data Would Only Lower Insurance Bills**

Some automakers may have also deceived consumers by exclusively advertising these programs as a way to lower their insurance bills, without revealing that some insurers might charge some drivers more based on their telematics data. Honda described its program to
consumers as a way to “get rewards for better driving” and that their information would be used to “determine your eligibility for insurance discounts.” Hyundai described its program as a way for consumers to “get rewarded for good driving habits” and that “Driving Score helps save you money.” But automakers could not guarantee that this data would only be used by insurance companies to provide discounts and that consumers would not pay more than if they had never enrolled in these programs. Moreover, Verisk officials confirmed to Senator Wyden’s office that the company’s contracts with automakers and insurers did not require that driver telematics data only be used to provide discounts.

Senator Wyden’s office spoke with a national expert at an insurance industry trade association, who confirmed that some insurance companies do in fact use driver data from telematics programs to raise premiums above the rate a consumer would have paid without telematics data. The insurance industry association expert also stated that only two states — Louisiana and Montana — currently prohibit the use of telematics data to raise insurance premiums, while California only permits telematics data to be used for mileage verification. Determining if insurance companies in fact used telematics data sold by Verisk to raise premiums, as opposed to using this data solely for discounts, would require a manual review of insurance industry filings to state insurance regulators, which are not easily searchable. However, Oregon’s state insurance regulator confirmed to Senator Wyden’s office that they are aware of insurers using telematics as a component in determining rates. They added that, in some cases, rates that incorporate telematics may result in higher premiums for consumers.

The problematic practices we have uncovered and documented in this letter are likely just the tip of the iceberg. We focused this recent oversight effort on automakers’ relationship with one specific data broker in order to determine if there is a problem that warrants further oversight by federal regulators. Verisk has publicly confirmed it sold driver data from three automakers, but the media has reported that other data brokers, like LexisNexis, are still selling driver data.

Companies should not be selling Americans’ data without their consent, period. But it is particularly insulting for automakers that are selling cars for tens of thousands of dollars to then squeeze out a few additional pennies of profit with consumers’ private data. The FTC has already taken action against data brokers that have committed unfair and deceptive acts or practices by selling location data obtained without consumers' informed consent. Although two cases this year involved location data collected from smartphone apps, the same principle applies to location data collected from internet-connected cars. Moreover, given the potential harm to consumers from increased insurance prices, the same standard should apply to vehicle telematics data.
Accordingly, we urge the FTC to broadly investigate these auto industry practices. The FTC should hold accountable the automakers, which shared their customers’ data with data brokers without obtaining informed consent, as well as the data brokers, which resold data that had not been obtained in a lawful manner. Given the high number of consumers impacted, and the outrageous manipulation of consumers using dark patterns, the FTC should also hold senior company officials responsible for their flagrant abuse of their customers’ privacy.

Thank you for your attention to this important matter.

Sincerely,

Ron Wyden
United States Senator

Edward J. Markey
United States Senator
Appendix A

Documents from General Motors
User Terms for Connected Vehicle Services and Privacy Statement (collectively "OnStar® Terms")

In order to start your OnStar and Connected Services trial or pre-paid plan, you'll need to accept the following terms.

I acknowledge that I am the owner of this vehicle and am aware of and agree to receive the connected services that are included with my vehicle, which collect and use data generated from the vehicle as explained in the User Terms for Connected Vehicle Services and Privacy Statement (collectively "OnStar Terms").

○ I accept:
I have read and agree to the OnStar Terms and, if AT&T services are available with this vehicle, the AT&T terms and conditions (including arbitration clause) and privacy policy for this vehicle available at www.att.com/privacy. I agree to AT&T’s network management practices as explained at att.com/broadbandinfo.

○ I decline:
I do not agree to OnStar Terms or, as applicable, the AT&T terms and conditions and privacy policy for this vehicle and understand that my OnStar and, as applicable, AT&T services will be DEACTIVATED.
Enrollment Preferences
(Optional Driver and Notifications opt-in)

One-click Email into OnStar Smart Driver and Notifications

- Enroll in your smart device with option to rate your vehicle.
- Receive email alerts about your driving habits.
- Get important vehicle repair status.
- Enjoy seamless synchronization with your vehicle.
- Receive notifications on your smartphone.
- Get tips on how to improve your driving habits.

Details

Your preferences will control what notifications you receive. You can change them at any time by visiting your vehicle's settings or contacting your dealer.

Notifications

- Read and understand the terms and conditions.
- Support OnStar's efforts to improve your driving habits.

Text messages

- Customizable prompts for text messages.
- Enjoy messages that take into account your driving habits.

Online Insurance Driving Program

- OnStar's Driving Profile provides insights into your driving habits.
- Get personalized recommendations to improve your driving.
- Enjoy discounted rates on your insurance.
- Participate in the OnStar Insurance Program and save on your insurance costs.

Benefits

- Reduced rates on your insurance.
- Improved driving habits.
- Access to personalized insights.

Tips for improved driving habits:

- Drive smoothly and avoid sudden braking.
- Keep a safe distance from other vehicles.
- Avoid speeding and other reckless behaviors.
- Use turn signals to inform others of your intentions.

- Text messages support personalized messages.
- Improve your driving habits with OnStar's insights.

Continue
Thank you for the call today. We greatly appreciate your attention to these issues and rest assured; we are taking a very hard, serious look at our privacy program.

We appreciate the opportunity to review the sections to correct any errors in the Senators' letter. I did want to confirm that you can use public facing screenshot documents that were shared with you, notwithstanding their confidential markings, if GM is not able to reproduce the documents in a different format.

We are happy to work with you as Sen. Wyden does legislation in this area. Please stay in touch.

Executive Director, Federal Affairs
25 Massachusetts Avenue, NW
Suite 400
Washington, DC 20001
Appendix B

Documents from Honda
Enrollment in Driver Training and Insurance

Opting Out of Driver Training and Insurance
Keep a record of every trip you take and get rewards for better driving! Enter your address so we can customize your driving score and determine your eligibility for insurance discounts.

<table>
<thead>
<tr>
<th>Street</th>
<th>Enter Street</th>
</tr>
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<tbody>
<tr>
<td>Apt / Suite / Other</td>
<td>Optional</td>
</tr>
<tr>
<td>City</td>
<td>Enter City</td>
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<tr>
<td>State</td>
<td>Select State</td>
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<tr>
<td>Zip</td>
<td>Enter Zip</td>
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</tbody>
</table>

By tapping Activate, I consent to Honda's processing of my vehicle's location data. For more information, view the Privacy Notice.
Appendix C

Documents from Hyundai
Screenshots:

#1) Terms & Conditions Opt-In

a) Via Dealer Assisted Enrollment:

Complimentary Subscription

Your Hyundai includes 3 years of complimentary Blue Link services which offers a suite of safety and convenience features. This subscription includes the Connected Care, Remote, and Guidance packages.

- I would like to sign up for the Wi-Fi Hotspot Trial with Verizon and agree to the following Verizon Terms and conditions and Privacy Policy.
- I have read and agree to the Blue Link Terms & Conditions.

Dealer Demo Only *Optional

Promo Code

Apply

Complete

Enroll In Blue Link Later
#2) Drive Score opt-out

a) Drive Score Opt-out on the website

DRIVING SCORE PERMISSIONS
You can choose to have the driving telematics gathered by your Hyundai shared with the Hyundai-contracted analytics specialist Verisk. Verisk will analyze your data and give you a weekly driving score. You can use this to compare your driving week by week and try to improve your score. You can also choose to share this information with participating outside auto insurance companies, who may use it to the possibility of a reduced rate based on the actual amount and quality of your driving.

DATA SHARING
Choose to whether or not you wish to share your data with Verisk so they can provide your weekly driving score. The data is shared with Verisk only. No insurance companies will see this data unless you separately consent to do so.

☐ Share my driving data with insurance companies that I select.

Data has been shared since: 01/01/2019

INSURANCE NOTIFICATION
You can share your driving data with participating insurance companies of your choice, and provide them with the opportunity to possibly lower your insurance rate based on detailed driving information. Neither Hyundai nor any of its affiliates are auto insurance companies, brokers or agents.

☐ Share my driving data with participating insurance companies that I select.
b. Drive Score opt-out on app